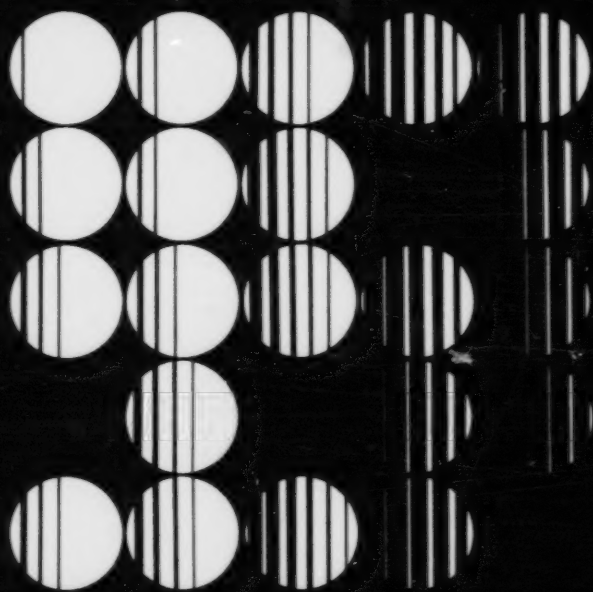


Consumer Bankrupts in Canada

J. W. Brighton
J. A. Connidis



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J.W. Brighton
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Policy Research, Analysis and Liaison Directorate
Policy Coordination Bureau
Consumer and Corporate Affairs Canada

The analysis and conclusions of this study do not
necessarily reflect the views of the Department.

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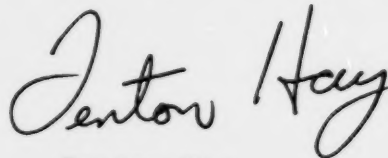
FOREWORD

Personal bankruptcy is an experience that most Canadians will not encounter in their lifetimes. However, for individuals and families who find themselves in the situation of personal financial insolvency, the bankruptcy process provides a mechanism for their return to the mainstream of society. The introduction of procedures and mechanisms that streamlined the administration of consumer bankruptcies in the early 1970s made bankruptcy available to those persons who could not afford it.

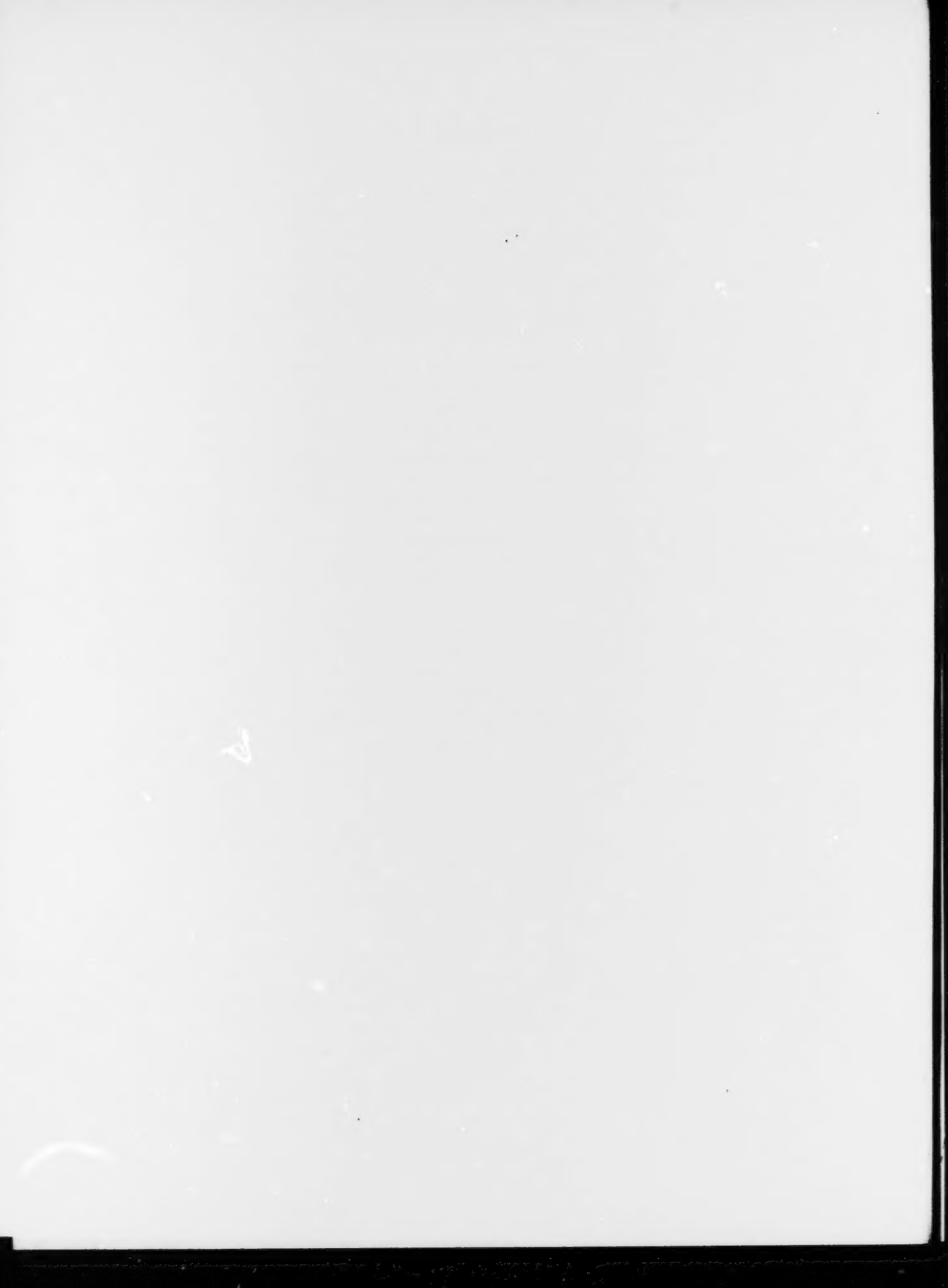
The greater access to and use of the bankruptcy process in the 1970s provided the impetus for this study. Accordingly, a data base of consumer bankrupt files for the year 1977 was created with the intention of performing a unique empirical investigation. Data from a representative sample of consumer bankrupts would permit their quantitative analysis and provide some leads to the causes of their insolvency. While a simple explanation of the bankrupt consumer was not expected to be uncovered, it was hoped that consumer bankrupts could be segmented by their socioeconomic characteristics and behaviours. The study can be judged to be a success on this basis and the authors are to be congratulated.

In addition to providing insights into the consumer bankruptcy phenomenon, the study provides suggestions for preventative policies and actions. The most obvious clientele for considering these suggestions are credit counselling and money management agencies, and the credit granting industry itself. While the consumer bankruptcy process is both efficient and humane, there is no question but that society would prefer to see fewer consumers in financial situations that necessitate the use of the bankruptcy mechanism.

In order to encourage the researchers to examine this topic in its fullest scope and to pursue issues of personal professional interest, it should be noted that the views presented are not necessarily held by Consumer and Corporate Affairs Canada.



Fenton Hay
Director General
Policy Research, Analysis and
Liaison Directorate



SUMMARY

This study focuses on consumer bankrupts in Canada. Its main purpose is to provide a detailed representative profile of the demographic characteristics and financial circumstances of consumer bankrupts at the time of their filing. A second purpose is to provide a literature review and comparative analysis of studies which consider the influence of economic, legal and demographic factors on consumer bankruptcy.

Part of the rationale for doing the study was to seek clues to ways in which the increasing number of consumer bankruptcies can be reduced. For inasmuch as declaring bankruptcy is a solution to the problem of insolvency for the individual bankrupt, it is clearly preferable if means can be found to reduce the social and economic hardship borne by creditors and other consumers as well as the debtor himself when declaring bankruptcy becomes necessary.

From the literature review and comparative analysis it was found that the legal treatment of debtors, such as remedies granted to creditors to assist them in obtaining repayment of debts, the nature of the relief provided by bankruptcy and the availability of that relief, accounts for much of the difference between consumer bankruptcy rates for Canada, the United States and the United Kingdom. In this respect the continuation of the trends in Canada towards limiting creditors' remedies, streamlining the bankruptcy process and increasing the types of debts relieved by bankruptcy should see a continuation of the trend towards readier access to and use of consumer bankruptcy. Even if access to bankruptcy were made more difficult, the problem of insolvency would still remain.

Controlling major economic factors influencing bankruptcy such as unemployment or debt to income ratios as a method for reducing consumer bankruptcies would be difficult since problems of unemployment and inflation are not easily remedied. Canadians might well resist the restrictions on credit that would probably be required to reduce debt to income ratios nationally.

Thus from the literature review and analyses it was concluded that little can be done to alter either the legal environment or the major economic factors influencing consumer bankruptcy. However, if a more specific breakdown of demographic factors is made, identifying problem groups of manageable size, then public, private and voluntary sectors,

whether at the federal, provincial or local levels, may be better able to focus on specific problems and their causes as they affect one or several identified target groups.

A major finding from the analysis of consumer bankruptcy files was that consumer bankrupts are drawn primarily from the lowest socioeconomic levels. In this respect it is largely a working class phenomenon associated with the unskilled and semiskilled. This is not to say, however, that middle-class persons are immune.

Consumer bankrupts are not a homogeneous group; at least three or four significant subgroups can be distinguished. These include young persons under 25, single parent families, and young to middle-aged families with two or three children.

The average (mean) number of debts owed by consumer bankrupts was 14; the median number was 7. The great majority of all debts owed (95% of the total number) were for consumer/personal items as opposed to mortgage debts or personal guarantees for business debts.

The average (mean) total liabilities were \$25 493 as stated by bankrupts and average (mean) total assets were \$6 243, leaving an average net deficiency of about \$19 250. These figures tell only part of the story, however, since they reflect the total sample and include a few extremely high individual values. The median indebtedness for the total sample was only \$10 865 and median assets were about \$400. Some dramatic differences were found between the private and public (Federal Insolvency Trustee Agency) trustee subsamples, as might be expected given the eligibility criteria for the latter program.

In terms of sheer numbers, the most prevalent category of creditor for consumer/personal debts was the consumer finance and acceptance companies. Second in rank were the chartered banks followed by department stores. Similarly, the most common creditor among consumer bankrupts is the finance and acceptance companies. Some 74% of the sample owed at least one debt to this source and 37% of the whole sample had two or more debts with finance and acceptance companies. Second in rank were the chartered banks. Of the total sample, 61% owed at least one debt to the chartered banks and about 24% had two or more such debts. Somewhat less than half the sample owed at least one debt to department stores (46%) and other retailers (41%).

The median amount of assets actually realized by the trustee was \$528; only about 6% of cases yielded \$2 000 or more. In only about a third of all cases (32%) was an amount shown as being available for distribution to creditors after trustees' fees had been taken. The typical amount available for distribution in such cases was roughly \$100 - \$250. Some fairly dramatic differences in liabilities, assets and creditors owed were found across various regions.

On the consumer side, there is ample evidence of mismanagement leading to excessive consumer debt in relation to the ability to repay. It appears from the data that many bankrupts have been faced with actual or threatened legal action shortly before filing an assignment into bankruptcy. One gets the impression, however, that few seemed to realize (or at least act on) the precariousness of their financial situation until it was brought sharply to their attention. Only a small proportion had previously tried the services of a debt counselling or similar agency.

Mismanagement is related to low money management ability and other life skills deficiencies often associated with the lower social classes. (But, again, by no means are middle-class families exempt from such problems.) Debt counselling at critical times and a more general requirement for increased money management skills teaching both in school and beyond, if done in ways appropriate to the circumstances of various target populations, would be definite aids.

A large part of the responsibility for consumer insolvency rests with the credit granting industry. Data from this study indicate that in many cases of bankruptcy the consumer's access to more credit should have been restricted earlier (and the customer counselled or referred for debt counselling). In short, getting further credit was too easy. There is a responsibility for credit grantors, especially cash lenders, to participate in joint industry, government, and voluntary sector efforts to detect and help avert impending consumer insolvencies requiring bankruptcy as a solution.

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Chapter I

BACKGROUND AND PURPOSE

Consumer insolvency refers to the situation of those consumer debtors unable to meet their credit obligations as they become due. When faced with this situation a number of alternatives are potentially available, depending upon the circumstances of the case. These options can include, for instance, credit counselling involving a rearrangement of the financial affairs of the individual, legal arrangements or proposals, and declaring personal bankruptcy. Bankruptcy is viewed as a last resort solution.

The focus of this study is on consumer bankrupts in Canada, that is, individuals who have declared bankruptcy once it has been established that this appears the best solution to their insolvency problem.¹

Bankruptcy is a legal process by which most insolvent consumer debtors are able to obtain relief from their debt burden. In Canada the bankruptcy system is governed by the Bankruptcy Act² which is administered by the Bankruptcy Branch of Consumer and Corporate Affairs Canada. At present, this system provides the insolvent debtor with three choices: an assignment into bankruptcy, a "proposal" under Part III of the Act and an "orderly payment of debts" under Part X of the Act; the latter two options permit the insolvent debtor to avoid actual bankruptcy. It would appear, however, that the majority of persons resorting to the provisions of the Bankruptcy Act choose straight bankruptcy rather than a proposal or an orderly payment of debts.³

An orderly payment of debts (OPD) is available only in those provinces which have opted into the system

1. Bankruptcy as it is used here refers only to consumer bankrupts; business bankruptcies are beyond the scope of this study.

2. R.S.C. 1970, c. B-3.

3. Annual Report of the Superintendent of Bankruptcy (Ottawa: Consumer and Corporate Affairs Canada, various years).

pursuant to section 213 of the Act.⁴ Under an OPD, a qualifying debtor may obtain a court order providing for the consolidation of his eligible debts. Upon the making of a consolidation order, the legal rights of action against the debtor by the creditors whose loans are subject to the order are substantially curtailed. It should be noted that a consolidation order under Part X of the Act must provide for the full payment of the debts subject to the order within three years unless the creditors agree or the court approves. The debts are consolidated but not composed. However, the debtor does benefit from an OPD, as it results in only one periodic payment being necessary at a reduced rate of interest, and relieves the debtor from harassment by those creditors covered by the order. Some types of debts are not covered by such orders under Part X of the present Act. Under the arrangements provisions of the new Act, however, all debts would be covered.

A proposal under Part III of the Act is made by the debtor, either before or after declaring bankruptcy, through a licensed bankruptcy trustee. In the proposal the debtor submits a scheme by which he intends to repay some or all of his debts. If the creditors and the court accept the scheme, then it becomes binding upon all creditors, and fulfilment of it by the debtor satisfies his debt obligations in full. Should the creditors or the court refuse to accept the debtor's proposals, however, or should an accepted proposal be annulled after default by the debtor, then the debtor is deemed to have made an assignment into bankruptcy. Bankruptcy Branch officials have pointed out that for practical purposes this procedure is too onerous in most consumer bankruptcies.

A debtor may become bankrupt either voluntarily or involuntarily. An involuntary bankruptcy occurs when a creditor petitions a debtor into bankruptcy. Such petitions are rare for consumers, the vast majority of consumer bankruptcies being voluntary. Once the bankruptcy occurs, all the bankrupt's assets become vested in the trustee for distribution according to the Act.

Exempt assets are determined by provincial laws. These exemption levels vary provincially (see Appendix A for details by province) but generally include personal property

4. At present, these provinces are British Columbia, Alberta, Saskatchewan, Manitoba, Prince Edward Island and Nova Scotia. Mechanisms similar to the OPD exist in Quebec (the "Lacombe Law") and Ontario (through the province's courts).

up to a determined dollar value, and tools necessary for the bankrupt's trade. In addition, upon bankruptcy all legal causes of action the creditors may have against the debtor are stayed, except the secured creditors' right to rely upon their security. Until he is discharged from his bankrupt status, firm restrictions are put on the ability of the debtor to borrow money, be bonded and to serve in certain capacities involving trust.

The consumer bankrupt must apply to the court to receive discharge from bankruptcy. If an absolute discharge is not granted, there are other types available, including conditional or suspended discharge; or, the discharge may be refused outright. Discharges may be conditional on, for example, the debtor continuing to pay a portion of his discretionary income towards satisfaction of his debts. The discharge will legally free the debtor from all of his debts except certain debts described in section 148 of the Act. Among these are court fines, payments due pursuant to an alimony or maintenance order and debts for goods supplied as necessities of life.

An exhaustive review of the Canadian bankruptcy system was begun in 1966 by the Study Committee on Bankruptcy and Insolvency Legislation appointed by the Minister of Justice. The Committee reported in 1970 that

the plight of the consumer or wage-earner debtor is one of the most important problems that must be faced in the field of bankruptcy in Canada. To a certain extent, this group of debtors represent the social and economic casualties of our industrial and credit system and must be so regarded.⁵

The Committee made several recommendations directed toward the consumer debtor including provisions for increased consumer access to bankruptcy, debt composition in addition to debt consolidation, and increased financial guidance and counselling. Increased consumer access to bankruptcy was considered necessary since private trustees were often unwilling to take on cases where the customary fee of about \$500 was not available.

Some of these recommendations were soon implemented at the federal and provincial levels. In 1972 the Fede-

5. Study Committee on Bankruptcy and Insolvency Legislation, Report, Bankruptcy and Insolvency (Ottawa: Information Canada, June 1970), p. 54.

ral Insolvency Trustee Agency (FITA) was established to make bankruptcy available to those bankrupts who could not afford a private trustee. FITA enjoyed immediate popularity, with one half to one-third of consumer bankruptcies proceeding under the program. As a result of increased efficiencies in bankruptcy administration implemented by the Bankruptcy Branch, private sector trustees found it attractive to assume the administration of all consumer bankruptcies including those estates with insufficient funds to cover their fees.⁶ By 1979, the FITA had come to an end. During the seventies other initiatives included a rapid increase in debt counselling services. Several provinces established debtor's assistance branches or boards or credit counselling services. These organizations are involved in counselling and educating consumers, administering prorationing schemes, or processing debt consolidation proceedings under Part X of the Bankruptcy Act in those provinces where it applies.⁷

A key result of the Study Committee's report was the drafting of a new Bankruptcy Act. Appearing originally as Bill C-60,⁸ the proposed Act was substantially revised, reappearing as Bill S-11⁹ and subsequently as Bill S-14,¹⁰ Bill S-9¹¹ and Bill C-12.¹² These Bills contain several new provisions aimed at consumers, including debt composition,¹³

6. Superintendent of Bankruptcy, Information Statement No. 8, May 7, 1979.

7. Consumer and Corporate Affairs Canada, "Survey of Credit Counselling Services in Canada," mimeographed (Ottawa, 1978).

8. First reading, 5th May, 1975, 1st Session, 30th Parliament, 23-24 Elizabeth II, 1974-75.

9. First reading, Tuesday, 21st March, 1978, 3rd Session, 30th Parliament, 26-27 Elizabeth II, 1977-78.

10. First reading, Tuesday, 27th February, 1979, 4th Session, 30th Parliament, 27-28 Elizabeth II, 1978-79.

11. First reading, Thursday, 8th November, 1979, 1st Session, 31st Parliament, 28 Elizabeth II, 1979.

12. First reading, 16th April, 1980, 32nd Parliament, 29 Elizabeth II, 1980.

13. Bill C-12, Part III.

automatic discharge from consumer bankruptcy¹⁴ and the possibility for the administration of consumer bankruptcies by the provinces.¹⁵

In recent years there has been a great increase in both the absolute number and rate of consumer bankruptcies in Canada. This number has risen from 1 549 in 1967 (7.6 per 100 000 population) to 12 772 in 1977 (54.8 per 100 000 population) and 17 892 in 1979 (75.5 per 100 000 population). Figures for 1980 and 1981 show the number of consumer bankruptcies as 21 025 and 23 036 respectively. Table 1 illustrates this trend. It is a trend which is occurring at the same time as the caseloads of credit counselling agencies are also increasing.¹⁶

A number of factors are associated with this increase in consumer bankruptcies. These include the great increase in consumer credit outstanding in Canada¹⁷ and, as noted above, the greater access to consumer bankruptcy through initiatives of the Bankruptcy Branch such as FITA.

While declaring bankruptcy provides relief to the bankrupt and is often a solution to his insolvency problem, the trend of increasing consumer bankruptcies is nevertheless viewed with concern because of the economic and social costs involved. Considering the costs borne by creditors, and ultimately by other consumers, as well as the social and personal "costs" to the bankrupt and other family members, it is clearly preferable if measures can be found to reduce the need for this last resort form of relief.

It must be emphasized that this report is not a study or critique of the consumer bankruptcy process itself

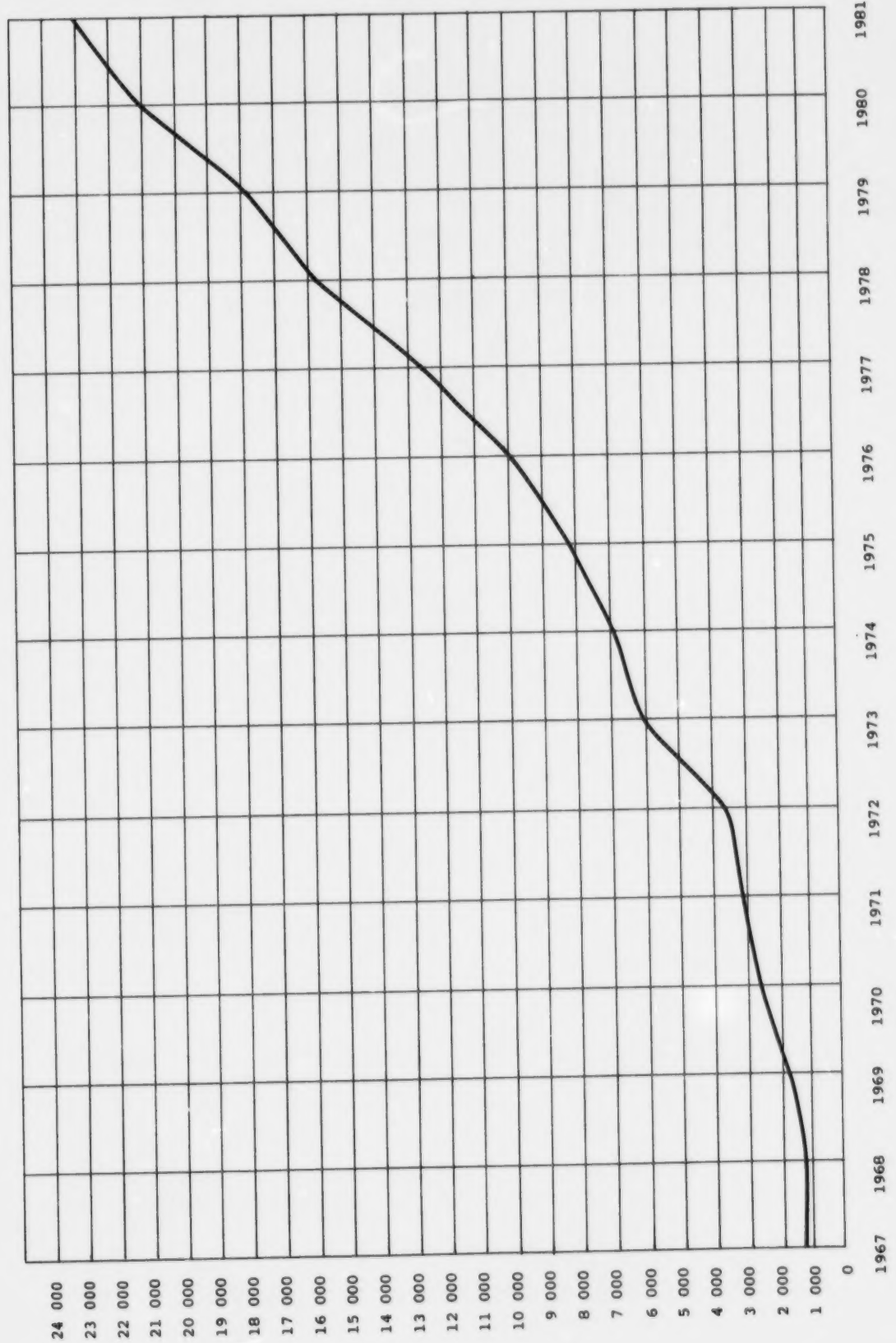
14. Bill C-12, s. 231.

15. Bill C-12, s. 16(1).

16. See, for example, Ontario Ministry of Community and Social Services, Statistics about Credit Counselling Services (Toronto, 1979-1980 and 1978-1979 as well as other years).

17. The amount of consumer credit outstanding (i.e., excluding mortgage debt) in Canada has increased from \$8.6 billion in 1967 to \$31.1 billion in 1977, \$43.0 billion at the end of 1980 and \$48.1 billion in September 1981. Sources: Statistics Canada, Consumer Credit, cat. no. 61-004, and Bank of Canada Review (monthly).

Table 1
Number of Consumer Bankruptcies: 1967-1981



in Canada. Rather, the general purpose of the present study is to provide detailed information regarding the characteristics and financial circumstances of consumer bankrupts in Canada. The literature review conducted in conjunction with this study (see Appendix B) revealed among other things that only a small number of regional and local studies had been previously conducted in Canada. In addition, the review of studies which consider the influence of economic, legal and demographic factors on bankruptcy (Appendix C) suggests that in order to find measures to reduce the need to resort to bankruptcy it would be better to determine the socioeconomic characteristics of bankrupts and their experience with the bankruptcy process rather than to examine further more general economic and legal factors.

The present research represents the first time that detailed financial and socioeconomic data have become available for a representative national sample of bankrupts. This study will therefore be of use to public, private and voluntary agencies in their desire to know more about the profile of consumer bankrupts and will help direct efforts to find means of reducing the need for this last resort solution to insolvency.

More specifically, the research objectives of this study are:

1. To review previous research on consumer bankruptcy in Canada, the United States and the United Kingdom in order to compare and evaluate the role of economic, legal and other factors in influencing consumer bankruptcy rates (see Appendices B and C).

2. To produce for the first time in Canada a national data base on a variety of characteristics of consumer bankrupts that is representative of:

- (a) the country as a whole;
- (b) those who filed under a private trustee;
- (c) those who filed under FITA; and
- (d) each of the 15 bankruptcy districts in Canada;

for the year 1977.

Also to make this computerized data file and accompanying code book available to researchers for further work on this topic. (Inquiries should be directed to the Policy Research, Analysis and Liaison Directorate.)

3. To provide a demographic and social profile of consumer bankrupts drawn from data available on:

- (a) basic demographic variables including age, sex, marital status and number of dependents;
- (b) occupation, and social class as measured by occupation;
- (c) employment status and income; and
- (d) debtor history as indicated by perceived causes of bankruptcy and when and how consumer bankrupts became aware of their insolvency.

4. To provide a detailed liability and asset profile of consumer bankrupts:

Liabilities

- (a) total liabilities, number of debts, types of lenders and kinds and amounts of individual debts as stated by bankrupts; and
- (b) liabilities as proved and admitted by trustees;

Assets

- (c) total assets, number of assets, types of assets and worth of individual assets as stated by bankrupts; and
- (d) assets realized by trustees and the value, type and disbursement of assets.

5. To provide an overview of the findings and their implications for further work.

Chapter II

METHODOLOGY

Two sources of data on consumer bankrupts in Canada were potentially available. One was new data generated by conducting a survey of consumers filing for bankruptcy. The other was existing data on those persons who had filed an assignment into bankruptcy at various Bankruptcy Branch offices across the country. Although the latter source would limit the research to data in the files, the data could be obtained at less cost and faster. A preliminary study conducted in August 1978¹ revealed that extracting data from existing files would provide sufficiently detailed information for the present study. Therefore this approach was taken. The population of interest was those persons who voluntarily or involuntarily became bankrupt (herein referred to as "consumer bankrupts") during calendar year 1977, the latest year for which complete data were available. There was a total population of 12 772 consumer bankrupts in Canada in that year.

The sample taken from these files was stratified along two dimensions. The first was according to how the bankruptcy was administered, that is, whether by private trustee or by FITA. Only lower-income consumer debtors were eligible for the program so that a discernible difference could be expected between the FITA versus private subpopulations.² Therefore, stratification on this dimension would increase sampling precision over a simple random sample. Of 12 772 personal bankruptcies in 1977, 4 729 were filed through FITA.

1. J. Connidis, "Private Bankruptcy Files: Report of Study of Personal Bankruptcy Files for the Toronto Bankruptcy District," working paper (August 1978).

2. Originally the requirements of a debtor to qualify for the FITA program were quite stringent. See Report of the Superintendent of Bankruptcy for the year ended March 31, 1973 (Ottawa: Consumer and Corporate Affairs Canada), p. 41. By 1977 it was only required that asset realization be "not sufficient to induce a private trustee to administer the estate" (Report, 1977, p. 7).

The second stratification dimension was by district bankruptcy office. In 1977 there were 15 district offices in Canada and it seemed reasonable to expect differences among these so that stratification on this variable would again increase precision. Once the population was stratified on these two dimensions a sample was drawn from each stratum using systematic sampling. This technique was chosen for its simplicity and to ensure an even sample distribution over the 1977 calendar year. Determining the optimum sample sizes for the strata was complicated by the absence of any information on the variance of the bankruptcy population. The sample size ultimately chosen for each stratum was the greater of 5% of the population or 50 files.

The systematic sample was drawn from a computer printout of all bankruptcy file identifiers for 1977 provided by the Bankruptcy Branch. The printout was not complete, missing approximately 10% of the personal bankrupts (11 461 on list compared to 12 772 files). The discrepancy was felt to be small enough that, given the total sample size of 1 509 files from the 11 461 on the list, it would not result in any significant loss in precision. The population and subsample size drawn from each are shown in Tables 2 and 3.

Several documents were copied from each file where available. From the FITA files, these documents included:

- (a) orderly payment of debts application form;
- (b) most recent address form where relevant;
- (c) application forms for the bankruptcy services of the the federal trustee (Parts A and B);
- (d) budget sheet and employment history sheet located with the above application forms;
- (e) bankrupt's statement of affairs;
- (f) questions put to the bankrupt by the Official Receiver;
- (g) income tax return(s) of the consumer bankrupt;
- (h) report of the trustee to the Superintendent of Bankruptcy;
- (i) report of the trustee to the court on the bankrupt's application for discharge (including the list of creditors who have proved their claims and the

affidavit of the bankrupt concerning the date of his assignment, his employment and budget); and

- (j) trustee's final statement of receipts and disbursements.

From the private trustee files the documents copied were (e), (f), (h), (i) and (j) from above. The other documents were not normally present in private trustee files.

Documents (e) and (f) were expected to be present in all files. It is these two documents which contain most of the data on the bankrupt. The others were more important for providing insight into the bankruptcy process as well as for clarifying points from (e) and (f).

The sample files were collected from across Canada. Only a very few files from the sample list were unavailable.³ Coding of the data and preparation of the Statistical Package for the Social Sciences (SPSS) computer data file were then completed, at which time the analysis began. (A copy of the coding instructions is available on request.)

The first step in the analysis was the tabulation of the number of the documents desired that were actually present. This is shown in Tables 4 and 5. It should be noted, however, that some data could be obtained from more than one document.

As Tables 4 and 5 indicate, documents (e) "bankrupt's statement of affairs" and (f) "questions to be put to the bankrupt by the Official Receiver" were present in the vast majority of files. Thus, among the subsample of 770 FITA files the "Questions" were present in all but one case and only ten "Statement[s] of Affairs" were missing. For the private files (N = 739) only one "Questions" and four "Statement[s] of Affairs" were missing. As these two documents were the main source of data, the data base was considered adequate. Other documents were not as frequently present, thus requiring more caution in interpreting results based on them. The number of valid cases is noted in various parts of the data analysis.

Weighting

Analysis of the data required that the substrata be weighted to compensate for differences in sampling rates. To do this, each subsample was assigned a design weight

-
3. Less than 2%.

Table 2

Selected Population and Sample Statistics

Statistic	Combined		FITA		Private	
	Population	Sample	Population	Sample	Population	Sample
Number of cases	12 772	1 509	4 729	577a	8 043	921a
Liabilities	\$22 150	\$25 493	\$10 733	\$10 395	\$28 863	\$34 947
Standard deviation	Unknown	\$51 563	Unknown	\$ 9 342	Unknown	\$63 548

aWeighted number of cases.

Table 3

Sample Sizes

Office	FITA		Private	
	Number sampled	Population size	Number sampled	Population size
Halifax	44	518	53	111
Montreal	57	288	79	1 530
Sherbrooke	59	87	49	194
Quebec City	52	111	50	360
Toronto	52	524	75	1 312
Hamilton	50	251	49	917
Ottawa/Hull	57	1 231	44	450
Sudbury	36	154	45	305
London	45	73	51	231
Winnipeg	60	192	51	231
Regina	50	101	12	15
Saskatoon	52	154	27	201
Edmonton	51	77	50	324
Calgary	52	77	55	282
Vancouver	53	580	49	580
Total	770	4 418	739	7 043

Table 4

Documents Present: FITA File Sample

Office	Document						
	Questions (f)	Affairs (e)	FITA form (c)	TS court (i)	Affidavit (i)	Budget (d)	Receipts (j) or TS court Receipts or Sample size
Halifax	44	44	38	8	1	43	41
Montreal	57	53	56	57	47	44	57
Sherbrooke	58	59	59	58	0	0	58
Quebec City	52	49	21	51	0	10	26
Toronto	52	52	14	52	45	43	51
Hamilton	50	50	50	49	43	37	49
Ottawa	57	57	57	57	32	45	57
Sudbury	36	35	36	36	33	33	36
London	45	45	45	45	42	42	45
Winnipeg	60	60	59	52	20	57	55
Regina	50	50	50	50	45	43	60
Saskatoon	52	52	51	52	50	49	50
Edmonton	51	49	48	50	50	40	52
Calgary	52	52	52	51	0	2	47
Vancouver	53	53	53	53	0	47	51
							53
Subtotal	769	760	689	721	408	535	728
Missing	1	10	81	49	362	235	42
Total	770	770	770	770	770	770	770

(c) Application forms for the bankruptcy services of the federal trustee (Parts A and B).

(d) Budget sheet and employment history sheet located with the application forms.

(e) Bankrupt's statement of affairs.

(f) Questions put to the bankrupt by the Official Receiver.

(i) Report of the trustee to the court on the bankrupt's application for discharge (including the list of creditors who have proved their claims and the affidavit of the bankrupt concerning the date of his assignment, his employment and budget).

(j) Trustee's final statement of receipts and disbursements.

Table 5

Documents Present: Private File Sample

Office	Questions (f)	Document						Sample size
		Affairs (e)	FITA form (c)	TS court (i)	Affidavit (i)	Budget (d)	Receipts (j)	
Halifax	53	53	30	15	8	24	28	53
Montreal	79	79	74	75	0	0	57	79
Sherbrooke	49	49	40	37	0	0	29	49
Quebec City	50	50	23	22	1	0	8	50
Toronto	75	74	59	59	45	38	31	75
Hamilton	49	48	39	38	28	24	21	49
Ottawa	44	44	42	35	16	16	30	44
Sudbury	45	44	45	44	31	27	39	45
London	51	51	44	44	36	35	36	51
Winnipeg	51	52	51	49	0	0	36	51
Regina	12	12	12	12	0	0	4	12
Saskatoon	27	26	19	19	1	0	13	27
Edmonton	50	50	46	41	0	2	33	50
Calgary	55	55	52	53	0	0	18	55
Vancouver	48	49	43	43	0	0	22	49
Subtotal	738	736	619	586	166	166	405	739
Missing	1	3	120	153	573	573	334	0
Total	739	739	739	739	739	739	739	739

(c) Application forms for the bankruptcy services of the federal trustee (Parts A and B).
 (d) Budget sheet and employment history sheet located with the application forms.
 (e) Bankrupt's statement of affairs.
 (f) Questions put to the bankrupt by the Official Receiver.

(i) Report of the trustee to the court on the bankrupt's application for discharge (including the list of creditors who have proved their claims and the affidavit of the bankrupt concerning the date of his assignment, his employment and budget).
 (j) Trustee's final statement of receipts and disbursements.

equal to the inverse of its sampling ratio. As direct use of the design weights would result in biased estimates of standard error, working weights were computed, first for the combined sample of FITA and private files and second for the analysis of the private and FITA subsamples separately, by dividing the design weight by the mean sampling ratio of the group in question. The mean sampling ratio is equal to the sum of the design weights divided by the relevant sample size. Table 6 shows the design weights, working weights and mean sampling ratios for each group.

The analysis presented here is based primarily on the combined (private and FITA) weighted file. With weighting as described above this meant the actual sample size of 770 FITA and 739 private became weighted to 927 private and 582 FITA (i.e., 61.4% private, 38.6% FITA). This compares satisfactorily with the 63% private files and 37% FITA files in the total population of 12 772 consumer bankrupts for calendar year 1977.

Difference of Means Test

The Report of the Superintendent of Bankruptcy for the 1977 calendar year provided data on the total liabilities as declared by debtors for the total population of non-business bankruptcies and for the private and FITA components. Since the mean liabilities for these population groups were known as well as the mean liabilities, variance and size of the samples, a difference of means test was conducted to determine whether the samples were representative of the populations in question. The data of concern are shown in Table 2.

To test the probability of obtaining the observed sample mean from a population with a known mean requires the basic assumption that mean liabilities are normally distributed. Due to the skewness of the total population this assumption could not be met. The skewness in the distribution resulted from the fact that the population included some persons with extremely high total liabilities.⁴ Therefore, the appropriate statistical test for the combined sample (a t-test), which requires a normal distribution, was inapplicable.

However, most if not all of the extremely high liabilities values in the population were among those filing privately. The eligibility criteria for FITA (low income,

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4. About 2% listed \$150 000 or more in liabilities.

Table 6
Sample Weighting

Office	FITA files		Private trustee files		Combined files	
	Design weight	Working weight	Design weight	Working weight	Design weight	Working weight
Halifax : FITA Private	11.773	2.052	2.094	0.220	11.773 2.094	1.550 0.276
Montreal : FITA Private	5.053	0.881	19.367	2.032	5.053 19.367	0.665
Sherbrooke : FITA Private	1.474	0.257	3.959	0.415	1.474 3.959	0.194 0.521
Quebec City: FITA Private	2.135	0.372	7.200	0.756	2.135 7.200	0.281 0.948
Toronto : FITA Private	10.077	1.756	17.493	1.836	10.077 17.493	1.327 2.303
Hamilton : FITA Private	5.020	0.875	18.714	1.964	5.020 18.714	0.661 2.464
Ottawa : FITA Private	21.596	3.764	10.227	1.073	21.596 10.227	2.843 1.346
Sudbury : FITA Private	4.278	0.746	6.778	0.711	4.278 6.778	0.563 0.892
London : FITA Private	1.662	0.283	10.314	1.082	1.662 10.314	0.214 1.358
Winnipeg : FITA Private	3.200	0.558	4.529	0.475	3.200 4.529	0.421 0.596
Regina : FITA Private	2.020	0.352	1.250	0.131	2.020 1.250	0.266 0.164
Saskatoon : FITA Private	1.481	0.258	1.074	0.113	1.481 1.074	0.195 0.141
Edmonton : FITA Private	3.020	0.526	4.020	0.422	3.020 4.020	0.398 0.529
Calgary : FITA Private	1.481	0.258	5.127	0.538	1.481 5.127	0.195 0.675
Vancouver : FITA Private	10.943	1.907	11.837	1.242	10.943 11.837	1.441 1.558
New sampling ratio		5.738		9.530		7.595

lack of money to pay for private trustee) and an examination of the total liabilities among FITA debtors led to the conclusion that liabilities among this population tended to be more normally distributed. Thus a t-test was calculated for the difference between the population mean (\$10 733) and the sample mean (\$10 395) for this group.⁵ The critical value of the test statistic⁶ was 2.32, whereas the calculated value of t was only .868. Therefore, the null hypothesis of no significant difference between the sample and population means was accepted for the FITA group at the .01 level of confidence.

For the reason noted above, a similar difference of means test on the private trustee group was inappropriate. However, given a sampling ratio of approximately one in five for the private files, the weighting procedures as discussed above, the stratification by district office, and the large sample size of 921 cases, the sample drawn was considered "representative" for present purposes.

5. Sample size: 577; standard deviation of sample: \$9 943.

6. Critical value of alpha set at .01, one tailed test, left hand rejection region.



Chapter III

DEMOGRAPHIC PROFILE OF CONSUMER BANKRUPTS AND PERCEPTIONS ABOUT THEIR BANKRUPTCY

Data available from the files on the consumer bankrupt's background, including demographic variables, are presented here. Chapter IV deals with the information available on liabilities and assets.

Demographics: Age, Sex, Marital Status and Number of Dependents

Age. Table 7 shows the distribution of the sample by age categories. Consumer bankrupts tend to be younger than the adult population at large. Nearly two-thirds (63%) were under the age of 35, compared to 43% of the total adult population age 18 or older. In fact, almost one half of bankrupts (48%) were between the ages of 25 and 34. At the other end of the age scale, 8% of consumer bankrupts were age 50 or older, compared to about a third (33%) of the total adult population. The average age of all consumer bankrupts was 33.6 years.

A breakdown of the sample by file type (FITA versus private) revealed a basic similarity in age distribution. The average ages, for instance, were quite similar at 33.1 years and 34.0 years respectively. There was, however, a greater proportion of young people filing under FITA. Thus 22% of FITA bankrupts were under the age of 25, compared to 11% of those filing with private trustees.

Sex. About two-thirds (66%) of all consumer bankrupts were male, while females accounted for 27%. In 1977 joint filings (legally married husband and wife whose assets and liabilities were substantially the same) were a separate category in some locations (primarily Quebec) and the remaining 6% of cases were so classified. The great majority (83 of 94) of joint filings were through private trustees.

Marital status. Direct comparisons between the bankruptcy sample and the population as a whole regarding marital status were complicated by differences in categories used. One difference is that data available for Canada as a whole (drawn from the Canada Year Book, 1978-79 and referring to 1976) were based on the population 15 years and over. Only 0.6% of consumer bankrupts were under the age of 20.

Table 7
Distribution of Weighted
Consumer Bankruptcy Sample by Age Groups

Age group	Sample	
	%	Number
18-19	0.6	9
20-24	14.4	215
25-29	24.8	369
30-34	23.5	350
35-39	14.7	219
40-44	8.1	120
45-49	6.2	93
50-54	3.9	58
55-59	2.3	34
60-64	0.8	12
65 and up	0.7	11
Total	100	1 490 ^a

^aThere were 19 cases where the age was unknown.

Table 8
Percent Distribution of Bankruptcy Sample and
of Adults 25 or Older in Canada by Marital Status

Marital status	Consumer bankruptcy sample (%)	Adults 25+ Canada (%)
Single	7.6	10.7
Married	66.1	78.8
Widowed	1.1	8.2
Divorced	7.1	2.3
Separated	13.8	a
Common-law	4.3	a
Total	100	100

^aCategory not used.

Data for Canada as a whole show that 64% of the population aged 15 and over were married, a figure that includes those who were separated. Among the bankruptcy sample, 64% were also categorized as married.¹ However, another 13% were shown as separated. In addition, while only 1.7% of the total adult population was divorced this was the status for 6% of the bankruptcy sample.² Thus a total of 19% of consumer bankrupts were shown as separated or divorced.

Single persons constituted 28% of the total adult population, a figure that includes those who were living common-law. Among consumer bankrupts, only 10% were single and another 5% living common-law. Those widowed made up 6% of the total population but only 1% of the bankruptcy sample.

There were no dramatic differences between the private trustee and FITA components of the bankruptcy sample except that a somewhat smaller proportion of the FITA sample was married and living together (59% compared to 68%), while a somewhat higher proportion of the FITA sample was separated (16% compared to 12%) or living common-law (7% compared to 4%).

Number of dependents. Dependents refer to persons living with and supported by the bankrupt. The modal category (38%) was those listing no dependents; another 11% listed one dependent, these two groups thus accounting for half the sample. Another third of the sample (34%) had two or three dependents and the remaining 16% showed four or more.³ The breakdown between private and FITA files revealed that a somewhat higher proportion of FITA files (42%) show no dependents, compared to 36% of private files.

From the above data on age, sex, marital status and number of dependents, a partial demographic profile of consumer bankrupts emerges. They tend to be drawn from the

1. Based on 1 406 cases; the other 103 were unknown.
2. Other data for the entire sample showed that about 5% had been involved in a divorce and 9% in a separation or other settlement in the previous five years.
3. These figures may not be entirely reliable. Those living alone should have been coded as having no dependents. In some cases, however, a person paying alimony/support may have listed one or more dependents and thus the coding may not have been entirely consistent in such cases.

younger age groups, two-thirds of them being under 35 years of age. Most (two-thirds) are male; in fact, many, if not most, cases of female consumer bankruptcy are precipitated by the husband's bankruptcy (discussed further under "Causes of Bankruptcy"). A majority of consumer bankrupts are married and a majority of consumer bankrupts have at least one dependent, with half of the total sample listing two or more dependents. It is also worth noting, however, that about two-fifths of consumer bankrupts list no dependents. In short, the typical consumer bankrupt would be a married male in the early to middle stages of the family life cycle with one or more children. The data also show, however, that about one in five consumer bankrupts are separated or divorced, and there is some evidence that consumer bankrupts have a higher incidence of marital breakdown than the population at large. One hypothesis is that financial difficulties lead to strains on a marriage which may result in separation or divorce. In some cases the separation/divorce no doubt compounds the financial problems and can be seen as a contributing factor to the family's insolvency. An alternative hypothesis is that there is no relationship between a family's financial and marital problems. Available evidence, however, suggests that a relationship does exist and it seems reasonable to suppose that family dysfunction can be caused or severely aggravated by financial difficulties or mismanagement. An attempt is made elsewhere to examine this issue (see "Perceived Causes of Bankruptcy," below).

Socioeconomic Classification of the Occupational Data

It was of particular interest to determine how the bankruptcy sample was stratified in terms of socioeconomic status. The most relevant data in this respect was the detailed information available on occupation. To derive a useful scale this information was coded in terms of a classification developed by Peter Pineo, John Porter and Hugh McRoberts as described below.⁴

Research on social stratification relies heavily on the classification of occupational data. Pineo, Porter and McRoberts have noted in their article, however, that the 1971 census codes are not particularly suited for this purpose. As an alternative they developed and demonstrated the suitability of a socioeconomic classification of occupations based on an informed assessment of the social standing (or

4. P.C. Pineo, J. Porter, and H. McRoberts, "The 1971 Census and the Socioeconomic Classification of Occupations," Canadian Review of Sociology and Anthropology 14 (1977): 91-102.

occupational prestige) of the occupation. The alternative coding system results ultimately in 16 categories ranging from "self-employed professionals" at the top of the list to "unskilled manual and clerical" occupations and farm labourers at the bottom. The resulting ranking of occupations was shown to be superior to the Census Major Groups as a measure of social standing.

As pointed out by the authors, their classification could be used for noncensus data. Not only would a respectable measure of the standing of occupations be produced, but it would also be possible to compare the resulting distribution with the census to test for possible bias in the sample. For both these reasons the coding system and resulting socioeconomic categories outlined in the article were employed in the present research.

Table 9 shows the distribution of those cases in the combined bankruptcy sample that could be classified in terms of their ranking along the 16 socioeconomic categories of the Porter-Pineo-McRoberts scale.⁵ Also shown is the distribution of the total labour force from the 1971 census along the same scale.

The Pineo, Porter and McRoberts article suggests that some collapsing of the 16 categories is possible. When this is done, some interesting and pronounced differences in the distributions arise. For example, the authors suggest that the top 3 categories can be combined to form a managerial and professional group. While 10% of the labour force are in this group, this is true for only 3% of the bankruptcy sample. Similarly, some 28% of the labour force would be classified at the foreman level or higher, while this is true for only 14% of the bankruptcy sample.

Another suggestion by the authors is to combine the clerical sales and service workers with the manual labouring category at the same skill level. At the skilled level the percentage proportions are roughly equal, that is, 18% of the bankruptcy sample and 20% of the labour force. Roughly the same is true at the semiskilled level, which includes 29% of the bankruptcy sample compared to 26% of the labour force. A dramatic difference, however, is noticeable at the unskilled level. Among the bankruptcy sample fully 38% are

5. Of the 1 509 cases about two-thirds (968) could be classified. Of the others, 234 were shown only as "unemployed" or "unemployed on social assistance." Another 118 were listed as "housewives" and the remaining 188 were "missing" on this variable.

at this level, almost twice the labour force proportion (20%) and nearly two-fifths of all classified cases. If it is reasonable to assume that a high proportion of the 234 bankruptcy cases not included because they were shown only as "unemployed" or "unemployed on social assistance," were low in skill level, then it is likely that an even higher proportion of all consumer bankruptcy cases (perhaps 50% or more) are at the unskilled level.

These findings clearly show that consumer bankrupts do not constitute a representative sampling of the labour force. Rather, it is obvious that consumer bankrupts are drawn heavily from the lowest skill levels. At the upper end of the scale the professional, managerial and other categories at the foreman level and above are very much under-represented. Thus, viewed in a stratification (social class) framework, consumer bankruptcy is very much a phenomenon associated with the working class and in particular the lower working class. Consumer bankruptcies among the middle class or professional groups are much less common. This is not to say, of course, that such groups are immune from problems of bankruptcy; they represent a small but significant proportion of consumer bankrupts.

That bankruptcies should be concentrated among the lower classes is not surprising given such factors as greater instability of employment and lower income levels. The findings are also consistent with surveys of problem debtors and of clients of debt counselling and related services. As found by an unpublished survey of debt counselling services in Canada conducted by Consumer and Corporate Affairs (see Bibliography) and as published credit counselling statistics indicate (e.g., Ontario's Credit Counselling Services), it is generally those in lower income and skill levels who experience the most problems and make up the majority of the caseloads of such services.

A breakdown of the occupational distribution according to whether the consumer bankrupt filed with a private trustee or under the FITA program is shown in Table 10. Generally, the FITA sample is more concentrated at the lower end of the scale, as would be expected given the objectives and focus of FITA. For instance, the unskilled categories include 33% of those filing privately but 46% of FITA cases.

As noted above, 234 cases of the total sample were known only to be "unemployed" or "unemployed on social assistance." Of these, 108 were from the private subsample and 126 filed under FITA, representing 13% of the former and 24% of the latter. If it is assumed that a high proportion of the unemployed are in the lower socioeconomic categories,

Table 9

Distribution of Consumer Bankruptcy Sample
and Canadian Labour Force (1971 Census) by
Porter-Pineo-McRoberts Socioeconomic Categories

Socioeconomic category	Combined consumer bankruptcy sample		Labour force (1971)	
	%	Number	%	Number
Self-employed professional	0	0	0.7	57 115
Employed professional	1.9	18	7.6	597 655
High-level management	1.0	10	1.5	116 155
Semiprofessional	2.7	26	4.1	324 765
Technician	0.7	7	1.6	129 975
Midlevel management	3.2	31	2.7	215 820
Supervisor	3.4	33	5.8	460 785
Foreman	1.1	11	3.6	284 640
Skilled clerical-sales-service	4.9	47	8.3	656 975
Skilled craft, trade	13.3	129	11.9	939 415
Farmer	0.7	7	3.0	234 015
Semiskilled clerical-sales-service	20.7	200	14.9	1 168 085
Semiskilled manual labour	8.1	78	10.9	860 480
Unskilled clerical-sales-service	6.1	59	5.1	401 110
Unskilled manual labour	31.4	304	15.1	188 440
Farm labour	<u>0.8</u>	<u>8</u>	<u>3.2</u>	<u>254 115</u>
Total	100	968	100	6 889 545

Table 10

Distribution of Private Trustee
and FITA Subsamples (Weighted) by Porter-
Pineo-McRoberts Socioeconomic Categories

Socioeconomic category	<u>Private trustee</u>		<u>FITA</u>	
	%	Number	%	Number
Self-employed professional	0	0	0	0
Employed professional	2.2	14	1.3	4
High-level management	1.4	9	0.3	7
Semiprofessional	2.8	18	2.2	7
Technician	1.1	7	0	0
Midlevel management	3.7	24	2.2	7
Supervisor	3.7	24	2.5	8
Foreman	1.2	8	0.9	3
Skilled clerical-sales-service	5.2	34	4.4	14
Skilled craft, trade	16.2	105	7.8	25
Semiskilled clerical-sales-service	19.3	125	23.5	75
Semiskilled manual labour	7.9	51	8.5	27
Unskilled clerical-sales-service	6.5	42	5.0	16
Unskilled manual labour	26.8	174	40.8	130
Farm labour	0.9	6	0.6	2
Farmer	1.1	7	0	0
Total	<u>100</u>	<u>648</u>	<u>100</u>	<u>325</u>

then the difference between the FITA and private subsamples is more pronounced.

In short, there are clear differences between the two subsamples, FITA files being predominantly from the lowest socioeconomic categories and more often unemployed and/or on social assistance than those filing privately. This finding is consistent with the eligibility criteria of the FITA program itself.

The 118 housewives in the sample were not included in the tables. Of the 118, 38 were from the private files, representing about 6% of the subsample. The 80 who filed under FITA represent about 20% of that subsample. No doubt one factor accounting for the difference is that housewives who declare bankruptcy typically have little income or assets to pay for the services of a private trustee.

Employment Status and Income

Further information on the socioeconomic circumstances of persons declaring bankruptcy was provided by one of the questions put to bankrupts by the Official Receiver. The question asked whether the individual was employed and, if so, on what date employment commenced. This question is different from the data presented above on occupational categories in that a person who, for instance, gave his occupation as "welder" could also have been unemployed at the time.

In coding the employment question, provision was made for four categories: employed full-time, employed part-time, not employed and unknown. By combining this information with the date on which the employment status commenced, compared to the date on which the questions were put to the bankrupt, it was possible to derive some idea of employment status and stability.

Table 11 shows the distribution of the combined sample by employment status and a breakdown of private trustee versus FITA cases. For the entire sample about 60% indicated they were employed. The breakdown by file type, however, reveals that while about 70% of those filing privately were employed this was true for only about 40% of those filing through FITA. One factor accounting for this is that the majority of housewives declaring bankruptcy (see above) did so under FITA. Nevertheless, the proportion of unemployed in both subsamples, especially in the FITA cases, is very high. It appears there is a positive relationship between being unemployed (and therefore having little if any income to pay bills) and declaring bankruptcy. While the

Table 11

Distribution of Weighted Sample
by Employment Status and by File Type

Employment status	File type				
	Combined		Private		FITA
	%	Number	%	Number	% Number
Employed full-time	56.4	842	68.6	627	37.2 215
Employed part-time	4.6	69	4.5	41	4.8 28
Not employed	<u>39.0</u>	<u>582</u>	<u>26.9</u>	<u>246</u>	<u>58.0 336</u>
Total	100	1 493 ^a	100	914	100 579

^aThere were 16 unknowns.

nature and strength of this relationship is an issue requiring further analysis, at least some insight is provided by the data on length of time in present status (employed or not employed). This information was available for about two-thirds of the entire sample and is shown in Table 12.

Table 12 indicates a high degree of change or instability in employment status. One-quarter of the cases had been in their present status for more than three years and 36% for more than a year. Nearly 10%, however, had changed within the very month of filing for bankruptcy and about half had changed within the preceding six months. While no comparison with the population at large was attempted, instability of employment status appears high among consumer bankrupts.

In general, it may be concluded that consumer bankrupts exhibit a much higher degree of unemployment and job turnover than the population at large. An important factor in accounting for this is that, as noted above, bankruptcy is concentrated among those in the lowest occupational groupings (e.g., unskilled manual and clerical workers). Such occupations are often characterized by higher job instability (e.g., layoffs or quitting voluntarily) and lower pay levels than occupations in the higher socioeconomic categories. Where the individuals affected have low debt levels the fact of intermittent employment in itself may not be too dramatic. If such individuals are carrying relatively high debts, however, then it is clear that loss of job could quickly lead to insolvency. Also, asset levels are relevant to the individual's ability to weather a period of unemployment and still meet financial obligations.

Income. Some data were available on incomes, including the responses to a question put to each bankrupt by the Official Receiver as to whether the person was employed at the time and as to his or her income. The amount stated could be either gross or net income. As well, FITA applicants were asked to state their income for "this year" and "last year" in addition to their present net income.

The data were not very reliable but did give some idea of general income levels. There were only about 879 (of 1 509) valid observations on the income question. Of the 272 cases where a gross income was listed the average amount was \$11 418 (standard deviation \$4 500). Where a net income was stated (511 cases) the average amount was \$7 386 (standard deviation \$3 189). Finally, there were 96 cases where the amount listed was not known to be gross or net. The average in these cases was \$8 311 (standard deviation \$4 145).

Table 12

Distribution of Cases by How Long
in Present Employment Status

Number of months	Known cases	
	%	Number
0	8.7	84
1-3	23.7	229
4-6	15.3	148
7-9	9.0	87
10-12	7.4	72
13-24	7.9	76
25-36	4.7	45
More than three years	<u>23.3</u>	<u>224</u>
Total	100	965

Though spotty and covering wide ranges the data indicate that incomes of consumer bankrupts are generally quite low. This is particularly true in cases where the bankrupt has one or more dependents. In this respect the impressions gained from the occupational distribution and employment status figures are reinforced: consumer bankrupts are generally drawn from the lower socioeconomic groups, whether measured by income or by occupation. Also, some persons gave a nonemployment income, that is, income derived from unemployment or social assistance benefits. As noted above, instability of employment appears much more prevalent among consumer bankrupts (and the socioeconomic groups from which many consumer bankrupts are drawn) than among the labour force at large.

The grouped income data (747 valid observations) show the modal income category was \$9 000-\$9 999 (14%). Nearly 80% of the cases were between \$5 000 and \$15 000 in income, distributed quite evenly. It should be noted that for both the figures on average income and the grouped income data, values of \$0 were treated as missing values and therefore excluded. It may be that some bankrupts (housewives for example) actually had zero income during the year. To the extent that this is true the data here are biased upwards.

The same data were broken down by file type. Among those filing privately the modal income group was \$9 000-\$9 999 (17%), followed by the \$12 000-\$14 999 category (16%). By contrast the modal category of those filing under FITA was \$5 000-\$5 999 (20%), followed by the \$6 000-\$6 999 group (14%). About two-fifths (42%) of those filing privately had incomes above \$10 000, compared to only 7% of FITA files. Again, the findings are not surprising in light of the eligibility criteria for FITA. They indicate, however, that especially among FITA applicants, incomes at time of filing are quite low on average.

Other information. Further information on the situation of consumer bankrupts at time of filing was obtained by asking FITA applicants how they had learned of the program. Of those responding (503 of 770) the most frequent referral source was a lawyer or legal aid (25%), followed by "other counsellors" (24%). Ranked third was "friend or relative" (17%), then credit counselling services or orderly payment of debts (15%). Together these account for about 80% of referrals. None of the other sources accounted for more than about 5%. These included applicants who were referred by private trustees (6%), applied on their own initiative (4%), learned through advertising (4%), or were referred by bank managers/other creditors (3%), family service bureaux (3%) or employers(1%).

Perceived Causes of Bankruptcy: When and How Consumer Bankrupts Became Aware of Their Insolvency

Other questions put to the bankrupt under oath by the Official Receiver included asking the bankrupt to state the causes of his bankruptcy and when he or she first became aware of being insolvent. Bankruptcy Branch officials have noted that the information must be read with caution since the answers are clearly related to how it was interpreted by the consumer bankrupt, the interviewing skills of the various Official Receivers and the amount of interpretation in recording the information. Though the information should not be taken as an entirely valid reflection of what actually occurred, it did, however, appear quite interesting and worth reporting.

Causes of bankruptcy. Among the questions put to the bankrupt by the Official Receiver was, "What are the causes of your bankruptcy?" A high proportion of the sample stated at least one reason. Slightly more than half the sample (784 of 1 509) also listed a second reason, while about 10% of the total listed three reasons.

For coding purposes the reasons were grouped into 17 categories to reflect as much as possible the wording of the answers given. Some of these reflected a common factor and some categories had only a few cases in them. The 17 were therefore collapsed into 5 general categories.

The distribution of reasons across the five general categories changed only slightly (no category by more than 2%) whether only the first reason listed was considered or all reasons. Based on the distribution of the first reason given, as shown in Table 13, a number of observations can be made.

First, about 14% of consumer bankruptcies were related to the operation of or guarantees for a business. Included in this category was the reason "liability as guarantor for spouse's business," as further analysis indicated this reason typically referred to wives who declared bankruptcy after their husbands had defaulted on debts which the wife had cosigned. A further 14% were related to misfortune such as a sudden or chronic deterioration in health, medical expenses or other misfortune beyond the debtor's control.⁶

6. Those coded as "other misfortune beyond bankrupt's control" were re-examined and found to include car accidents, bad real estate deals, house fires, loss of driver's licence, jail and gambling. Also included, however, were a few references to threatened or actual legal proceedings.

Table 13

Distribution of Consumer Bankruptcies by
First Reason Given for Bankruptcy

First reason given	Number	%
1. Health/misfortune		
- debtor's health	72	
- medical expenses of dependents	7	
- other misfortune beyond bankrupt's control	77	
- alcoholism	<u>12</u>	14.3
	168	
2. Unemployment		
- unemployment	151	
- seasonal or intermittent	24	
- change of jobs	<u>4</u>	15.2
	179	
3. Business related		
- business inexperience or inability	38	
- liability of guarantor for business	100	
- liability of guarantor for spouse's business	9	
- other business liabilities	<u>21</u>	14.3
	168	
4. Marital/family problems	80	6.8
5. Consumer debt		
- excessive consumer credit	257	
- excess borrowing	37	
- lack of budgeting/money management skills	88	
- insufficient income to pay bills	<u>194</u>	49.2
	576	
Total		100.0
	1 171	

In most cases (at least three-quarters or more of the total) bankruptcy was more or less directly related to consumer debt. Thus, Table 13 shows that about half (49%) of all reasons listed were directly related to mismanaged or excessive consumer credit.

The relationship between consumer indebtedness per se and bankruptcy is perhaps less direct where "unemployment" or "marital/family problems" was the first cause listed (15% and 7% of first reasons respectively). In the former instance it may be that the person's indebtedness level and ability to pay bills as they become due were well under control until he or she became unemployed or was forced into a lower paying job. In some cases, however, the person may have lost or given up the job for reasons closely related to indebtedness. These reasons could include actual or threatened garnishment or a deliberate attempt to avoid paying bills through quitting the job, then declaring bankruptcy.

There is similar ambiguity in the extent to which "marital/family problems" as a reason for bankruptcy is related to consumer debt. In some cases, high debt levels may have been primarily responsible for family friction and eventual separation or divorce. In other cases, however, the order of events may have been that the couple separated and, as a result, one spouse was suddenly faced with added expenses and/or reduced income. The net result was an inability to service existing or new debt which led to an assignment into bankruptcy.

In general, it appears that business-related debts (14% of total) and health-related problems (another 14% of total) aside, practically all other consumer bankruptcies are more or less directly related to mismanaged and/or excessive consumer debt levels. In some cases, allowance would have to be made for extenuating circumstances largely beyond the bankrupt's control. As noted above, these circumstances would include unexpected loss of job or a separation/divorce which presented insurmountable financial obligations due to reduced income and/or increased expenses. Overall, however, the level and structure of consumer debt and other expenses in relation to income and assets represents the most important area of investigation in analyzing the immediate and underlying factors accounting for consumer bankruptcy. These factors are explored further in other sections of this report.

A second source of information on the immediate causes of bankruptcy was often available as a check against information given by the bankrupts. In cases where the trustee's statement to the court or Superintendent of Bankruptcy was available, the trustee usually listed what in his

or her opinion were the causes of the bankruptcy. A breakdown of the first cause listed by trustees (N = 1 344) in terms of the five major categories in Table 13 was conducted. The percentage distribution was as follows (first reason given by consumer bankrupt in parentheses): health/misfortune 14% (14%), unemployment 18% (15%), business related 12% (14%), marital/family problems 4% (7%) and consumer debt 52% (49%). Thus the results show essentially the same distribution and confirm the distribution of causes listed by consumer bankrupts themselves.

When and how applicants became aware of their insolvency. Immediately after stating the causes of bankruptcy the consumer bankrupt was asked when he or she first became aware of being insolvent. As noted above, the quality of this information is highly dependent on both how it was interpreted by the consumer bankrupt and the interviewing skills and amount of interpretation on the part of various Official Receivers. The data on this question in particular should therefore be treated as being of interest but not an entirely valid reflection of what actually occurred. The time that elapsed between this awareness and the date of filing the assignment into bankruptcy was calculated where possible. The results are shown in Table 14.

The data show that more than a third (36%) filed immediately after or within a month of being recorded as becoming aware of their insolvency. Furthermore, almost two-thirds (66%) filed within three months of becoming aware. At the other end of the scale, only 2% went two years or more before filing and only 7% more than a year. The average time for all cases reported was roughly four and one-half months.

Some individuals also provided information on how they became aware of being insolvent. The data are quite spotty since the question was not asked specifically and information was given or recorded in only some cases. Nevertheless, some 16% of the sample provided at least one answer that was recorded. The rank order of answers given was as follows: legal action had been taken (21%), pressure from a collection agency (15%), unable to be helped by credit counselling service or orderly payment of debts arrangement (15%), could not meet monthly payments (13%), spouse lost job (12%), spouse declared bankruptcy (9%). The remainder included marital problems (6%), illness (5%) and business failure (4%).

Given the small number of cases the pattern of answers provides only a tenuous idea of precipitating factors.

Table 14

When Aware of Insolvency and Date of Filing

Number of months elapsed from time insolvency was discovered and assignment into bankruptcy filed	Frequency
0	192
1	329
2	212
3	220
4	79
5	80
6	60
7-9	108
10-12	81
13-15	16
16-18	26
19-24	23
25-36	15
36+	15
Total ^a	1 456

^aThere were 3 cases with an unknown date of filing and 94 with an unknown date of becoming aware of insolvency. The figures, except for unknowns, are weighted and thus do not total 1 509.

It appears, however, that perhaps one half of those who declare bankruptcy have had legal action taken against them or are under other pressure from creditors. (And, as seen above, lawyers, legal aid and other counsellors are a common source of bankruptcy referrals.) This impression is reinforced by data above showing that more than a third of bankrupts filed within a month of becoming aware of their insolvency and two-thirds within three months. Although financial problems are almost by definition far advanced and acute, it appears that many only become fully aware of the seriousness of their situation and file for bankruptcy when pressured (through legal action or harassment) by creditors. The extent to which actual or threatened legal action is related to unemployment and to change of employment status noted earlier also appears to warrant further attention.⁷ Additional information was provided by some consumer bankrupts on their attempts to pay their debts or on encounters with the law previous to filing for bankruptcy. Generally speaking, these involved only small proportions of the sample. Regarding legal action taken against them, about 5% indicated goods had been repossessed while about 3% said they had voluntarily returned goods. Data from the FITA applications show that about 11% said their wages had been garnished and roughly the same number had been served with a writ of execution. Of the total sample about 4% had been previously bankrupt.

Data for the entire sample show that 2% answered "yes" to the question about making a previous proposal and 3% said they had been involved in a previous arrangement. Of those who had been previously involved in a debt repayment arrangement (N = 45) the average duration was about 11 months. For the FITA sample only, information on whether the services of a debt counselling or orderly payment of debt service had been used was recorded. Answers indicated that practically none (0.1%) had used Part X of the Bankruptcy Act, about 5% had used Quebec's Lacombe Law (23% of the Quebec sample) and practically none (0.1%) had tried a consolidation of debts. About 10% had previously tried a credit counselling service.

Summary

The data on socioeconomic status and employment history presented above show that consumer bankrupts are drawn quite heavily from the lower socioeconomic categories

7. See T.C. Puckett, "Credit Casualties: A Study of Wage Garnishment in Ontario," University of Toronto Law Journal 28 (1978): 95-194.

(although it must be remembered that a small but significant proportion of all consumer bankrupts are drawn from the professional, managerial and skilled worker groups). It was suggested that the high level of job uncertainty and turnover could be explained in terms of the fact that job security and pay are lower in semiskilled and unskilled occupations. The data on causes of consumer bankruptcy and on how consumer bankrupts became aware of their insolvency, although requiring caution in interpretation, suggest an extension or refinement of this position. That is, it appears from the data that fairly high numbers of consumer bankrupts have been faced with legal proceedings against them or their paycheques, such as actual or threatened garnishment. In many cases such action was cited as the reason the person became aware of his or her insolvency. It may well be that these actual or threatened proceedings help explain the high rate of job instability among consumer bankrupts. Specifically, when faced with the seriousness of the situation some consumer bankrupts may have been released from their jobs or resigned voluntarily. The consequence, of course, is a worsening of an already very precarious situation, leading in many cases to an immediate or almost immediate declaration of bankruptcy even though, as Bankruptcy officials note, the accumulation of debts leading to this crisis often takes place over a period of three years or more. In short, the series of events in many cases appears to start with consumer debt which is mismanaged or simply too high in relation to income. At some point the mismanaged financial situation is abruptly brought to the person's realization through legal action or other creditor pressure. Incomes which are generally low, inherent job insecurity because of low skill levels, and lack of financial management skills all contribute to the crisis. Marital problems are also a factor in many cases. At any rate, once faced with the seriousness of the situation many leave or are released from their jobs shortly thereafter. From that point many indicate that it took only a relatively short period of time to find themselves in the trustee's office. Of course, only a certain proportion of this group end up declaring bankruptcy, other solutions being referral for credit counselling or other legal-financial arrangements. Of those who do declare bankruptcy, however, relatively few state that they have previously been involved in debt repayment schemes.

Chapter IV

LIABILITIES AND ASSETS STRUCTURE OF CONSUMER BANKRUPTS

Detailed information was available on the debts and assets of consumer bankrupts. The information was drawn primarily from the bankrupts' Statements of Affairs but also from the trustees' reports where present, including the Trustee's Statement to the Court and Statement of Receipts and Disbursements. Bankruptcy Branch officials note that while the accuracy of the data in the Statement of Affairs is related to the bankrupt's ability to remember various debts, the trustees' reports should be accurate.

Total Liabilities, Total Assets and Deficiency

Information available from consumer bankrupts on their liabilities and assets as listed in the Statement of Affairs was quite detailed.¹ Bankrupts were required to provide a summary of total liabilities, total assets and the deficiency, a detailed listing of creditors and amounts owed each, and a detailed listing of assets and their value. The summary data regarding total liabilities, total assets and the deficiency are presented below (see also Table 15), followed by more detailed information on kinds and amounts with regard to particular liabilities and assets.

Average (mean) total liabilities were \$25 493 and average total assets were \$6 243, leaving an average net deficiency of \$19 250. As Table 15 indicates, however, there is a wide range with a few extremely high values. The median indebtedness was only \$10 865 and median assets were only \$400. To give a better idea of the distribution, the data on total liabilities and total assets by dollar categories are shown in Tables 16 and 17. Included in each table is a breakdown for private trustee versus FITA files.

1. The instructions to the bankrupt were, "you are required to complete carefully and accurately this sheet and such of the several sheets attached hereto as are applicable showing the state of your affairs on the date of your bankruptcy....such sheets when completed will constitute your Statement of Affairs and must be verified by oath or declaration."

Table 15

Summary Statistics Regarding Total Liabilities,
Total Assets and Deficiency as Stated and Estimated by
Consumer Bankrupts

Statistics	Total liabilities as stated	Total assets as stated	Deficiency
Mean	\$25 493	\$ 6 243	\$19 237 ^a
Median	10 865	400	9 370
Standard error	1 332	481	1 172
Standard deviation	51 563	18 670	45 294

^aThe calculated deficiency between mean total liabilities and mean total assets is \$19 250 rather than the \$19 237 shown. This is due to a few minor discrepancies in the data.

For total liabilities the modal category for the combined sample was \$7 000-\$9 999 (20%). Slightly more than half (56%) of the combined sample had liabilities under \$12 000. At the upper ranges about one-quarter (24%) had liabilities of \$25 000 or more, including 11% with liabilities of \$50 000 or more. About 5% had liabilities of \$80 000 or more, and 2% had stated liabilities exceeding \$150 000.

The breakdown by file type shows fairly dramatic differences, with FITA files typically showing much less owing. While 22% of FITA files had liabilities of less than \$5 000, only 7% of private trustee bankrupts owed less than \$5 000. About four-fifths of FITA files (78%) showed liabilities under \$12 000 versus two-fifths (42%) of private files. At the upper end of the scale more than a third (35%) of private files owed \$25 000 or more compared to only 5% of FITA files.

Originally, when FITA was established in 1972, debtors were required to meet certain income and asset tests, although by 1977 these administrative criteria were relaxed so that federal trustees were generally available to any debtor unable to obtain the services of a private trustee. Thus the eligibility criteria for FITA itself account for the dramatic differences in asset levels between FITA and private files.

The data on assets show that more than a quarter (28%) of the total sample stated that they had no assets and

Table 16

Distribution of Total Liabilities as Stated by Dollar Categories for
Combined Sample and by File Type

Total liabilities	File type			
	Combined	Private		FITA
	%	Number	%	Number
\$1 - 2 999	1.8	27	0.7	6
\$3 000 - 4 999	10.8	162	6.2	57
\$5 000 - 6 999	12.6	188	9.6	88
\$7 000 - 9 999	20.0	299	16.2	149
\$10 000 - 11 999	10.6	158	9.1	84
\$12 000 - 14 999	8.8	132	9.7	89
\$15 000 - 24 999	11.8	177	13.4	123
\$25 000 - 49 999	12.2	183	17.4	160
\$50 000 and up	11.4	171	17.7	163
Total	100	1 497 ^a	100	919
			1.4	8
			100	578

^aData were missing or unknown in 17 cases.

Table 17

Distribution of Total Assets as Stated by Dollar Categories for
Combined Sample and by File Type

Total assets	File type				
	Combined		Private		FITA
	%	Number	%	Number	% Number
\$0	28.3	422	18.6	170	43.7 252
\$1 - 249	13.8	205	12.0	110	16.5 95
\$250 - 499	10.6	157	9.9	90	11.7 67
\$500 - 999	12.7	190	12.6	115	13.0 75
\$1 000 - 1 999	10.9	163	11.9	109	9.3 54
\$2 000 - 4 999	8.2	123	11.4	105	3.2 18
\$5 000 - 24 999	5.3	80	7.7	71	1.5 9
\$25 000 - 49 999	6.7	100	10.2	94	1.1 6
\$50 000 and up	3.5	52	5.7	52	0 0
Total	100	1 492	100	916	100 576

more than half (53%) indicated assets of less than \$500 in value. About 10% indicated assets of \$25 000 or more. Among FITA files 44% show no assets versus only 19% of private files. About 85% of FITA files indicate assets of less than \$1 000, versus 53% of private files. At the upper ranges, about a quarter of private files (24%) showed assets of \$5 000 or more compared to only 3% of the FITA sample.

In summary, about two-thirds of all consumer bankrupts show liabilities of \$5 000-\$25 000, the median being roughly \$11 000. As will be seen below, these debts are made up of consumer debts in the vast majority of cases. A small but significant proportion, however, show debts of relatively high amounts (\$40 000 or more) and these cases are more likely to involve personal guarantees for mortgage and business debt. Those filing under FITA typically have somewhat lower debt levels. Only very small numbers of this group have debts of more than \$10 000.

Consumer bankrupts typically show little or no assets which can be applied against their debts. It is possible, however, that consumer bankrupts will tend to minimize their assets, a notion that is tested elsewhere in this paper by examining the amount and kind of assets actually realized and disbursed by the trustee. There are a few cases where high levels of assets are indicated (among private files only) but, as will be seen, such assets usually represent real estate fully encumbered by a mortgage. Especially among FITA files the likelihood is high that little or no assets will be shown.

A few general impressions emerge from the data. One is that the amount of indebtedness is not extremely high in most cases, particularly in comparison to other families in similar stages of the family life cycle. A second impression, however, is that assets as shown are typically very low. This could indicate that many assets of value have already been liquidated to pay bills or that the debts have been incurred for consumer goods of little resale value or for personal services. The characteristics of the sample, including a high proportion who are of low socioeconomic status and tend to blame their plight on mismanagement or excessive consumer spending, support the latter view. Finally, it would seem from the typical amount of liabilities that if consumer bankrupts had even \$300-\$400 per month to apply against their debts they could remain solvent. However, since a high proportion are on social assistance, otherwise unemployed or employed only in low-paying jobs, all income is needed for the basics of food, clothing, shelter and transportation. This combination of circumstances quite possibly has developed over a period of a couple of

years or more, but when the seriousness of the person's financial situation becomes obvious, often precipitated and aggravated by legal and other pressure applied by creditors, a feeling of hopelessness or "no light at the end of the tunnel" is often followed by a relatively quick decision to seek a solution to the problem.

Liabilities Structure: Types of Lenders, Purpose and Amounts of Individual Debts

Data regarding the 16 largest debts as listed in the Statement of Affairs for each consumer bankrupt were recorded.² In addition, the total number of debts for each consumer bankrupt was noted.

The average number of debts for a consumer bankrupt was 14. The median number was 7.3 per case and the mode 5. About 30% of the sample listed 10 or more debts. A breakdown between private and FITA files showed no noteworthy differences in distribution except that FITA files tend to have somewhat fewer debts.

The Statement of Affairs also included detailed information on individual debts, including the amount of the debt, type of lender, and the kind and purpose of the debt. This detailed information was coded for the first 16 debts per case. Thus, of the total number of debts (14 279) listed on the Statement of Affairs for the entire sample, detailed information was potentially available for 12 622 and missing for the remaining 1 657.

Purpose of debt. Through consultation with the Bankruptcy Branch in making up the coding instructions it was agreed to distinguish three purposes: mortgage debt (first, second and other mortgages), student loans and guarantor's debt for a business. It was assumed that all other debts were for consumer/personal purposes. The distribution of all individual debts listed (up to 16 per case) by the four purposes distinguished are shown in Table 18.

The overwhelming majority of individual debts were for consumer/personal purposes (94.8%). Another 3.4% were coded as mortgage debt, followed by guarantees for a business (1.7%) and student loans (0.1%). Of course, in terms of dollar value the distribution would be different since a mortgage or business guarantee debt is typically for a much higher amount than the average personal/consumer debt.

2. For 1 498 of 1 509 cases; the others were unknown or missing.

Table 18

Distribution of All Individual Debts
Listed by Purpose of Debt

Purpose	Proportion of all debts listed	
	%	Number
Mortgage	3.4	433
Student loan	0.1	11
Guarantor for business	1.7	216
Consumer/personal	94.8	11 962
Total	100	12 622 ^a

^aThis total differs from that shown under total number of debts (14 279) since only up to 16 individual debts per file were recorded.

The emphasis here is on the personal/consumer debt. First, however, the data on mortgage, business, and student loan debt are presented in terms of the kinds of debt, to which type of creditor the money was owed and the amounts owing. "Kind" of debt means the category under which the debt was listed on the Statement of Affairs.³

Mortgage debt. Some 16% of the entire sample were coded as having one or more mortgage debts. Of these, two-fifths (41%) listed one mortgage debt and another two-fifths (40%) two mortgages. The remainder listed three or more. These figures may represent an understatement of the prevalence of mortgage debt in that some debts coded as personal/consumer may in fact have been for mortgage purposes. For instance, some personal loans from banks or other institutions may have been for a down payment. The majority of mortgage debt (70%) was shown as "fully secured," with most of the remainder (another 29%) listed as "partially secured."

The results of a cross-tabulation of type of lender (six categories) by dollar amount categories are summarized in Table 19. The majority of mortgage debts (53%) were in

3. Details are listed in the coding instructions, available on request.

excess of \$10 000 but were followed by the under \$4 000 category (20%). The most frequently listed creditors are finance and acceptance companies, followed closely by chartered banks. Mortgage loans of relatively small amounts (under \$7 000) are most often held by the finance and acceptance companies (43% of such loans), followed by banks (27%) and private individuals (19%). Loans from governments account for the remainder. In the case of finance companies or banks, such loans probably represent second mortgages or loans based on the person's home equity (or possibly loans extended for mobile homes). When creditors are private individuals, the amount may represent money borrowed from a relative for a down payment on a home. Given the characteristics of the sample noted above (relatively low incomes on average) the government loans may represent assisted home ownership plans.

For mortgage loans of \$10 000 or more the rank ordering of lenders was banks, trust companies, finance and acceptance companies, then credit unions. Private individuals and governments account for the remainder (13%) of loans of this size.

It has been pointed out by Bankruptcy Branch officials that there is typically a three- to five-year lead time between the accumulation of debts and declaration of bankruptcy as a last resort solution. Given this lead time and the ascendancy of chartered banks in lending (and the general decline of finance companies), it is likely that a more recent survey of consumer bankruptcy files would show more bank debt and less finance company debt.

Guarantees for a business. Some 5% (N = 75) of the total sample had one or more debts that were recorded as guarantees for a business debt. Of these, 29% held one such debt and another 24% held two; the remaining 47% held three or more. The great majority of these debts were classified as "unsecured" (87%); another 8% were to "preferred" creditors.

A cross-tabulation of business debts by type of lender and by dollar categories is shown in Table 20. The modal amount of such debts (48% of the debts) is in excess of \$10 000, followed by debts of \$4 000-\$9 999 (19%) and debts of \$1 000-\$3 999 (10%). The most significant creditor was the chartered banks and more than half the loans owed to banks were for \$10 000 or more. The second lender group was "other retailers," probably involving money owed by the individual for goods and services supplied to his business. In about half these cases the amount owed was less than \$1 000. As Table 20 reveals, other creditors included finance and acceptance companies, various government agencies,

and a few private individuals and utilities. A few credit union (N = 4) and trust company (N = 2) loans were also noted, all in excess of \$10 000.

Even allowing for misclassification of some cases it is clear that business debts account for only a small proportion of those declaring personal bankruptcy. This finding is generally consistent with the proportion of the sample listing business-related factors as a major cause of their bankruptcy. In these few cases, however, the amounts owing are likely to be substantial, that is, in excess of \$10 000.

Student loans. Less than 1% of the sample were recorded as owing money on student loans. Of the ten loans where the lender was known, three were from banks, four from government and three had been handed over to collection agencies. The modal amount category was \$1 500-\$2 499 (N = 3), the others being for lesser amounts. These figures suggest that default on student loans is an insignificant factor in the increase in bankruptcies. This is not to say that such defaults are not a major concern of persons granting student loans.

Bankruptcy Branch officials have suggested that the incidence of student loans is low because persons who have acquired marketable skills through student loan assistance are considered to have acquired a lifetime asset and therefore have typically been discouraged from filing for bankruptcy.

Consumer/personal debt. Practically all cases in the sample (more than 99%) were shown as having personal/consumer debt. Further, of those debts where a purpose⁴ was recorded (debts 1 through 16) personal/consumer debt represented about 95% of the total, as noted above. The average (mean) number of personal/consumer debts recorded per case in the sample was 9.1. The median number was 7 and the mode 5. Approximately 10% of the sample had more than 16 consumer/personal debts.

The distribution of consumer/personal debts by kind of debt (e.g., unsecured, fully secured) shows that some 88% of these debts were unsecured, 6% were to preferred creditors and about 5% were fully or partially secured (see Table 21).

4. Mortgage, business, student loan, personal/consumer.

Table 21

Distribution of Consumer/Personal Debts by Kind

Kind of debt	Number of debts	
	%	Number
Unsecured	88.2	10 198
Fully secured	2.3	271
Partially secured	2.8	324
Endorsement	0.1	16
Preferred	5.9	677
Contingent	0.6	70
Other	<u>0</u>	<u>5</u>
Total	100	11 561 ^a

^aInformation unknown for 401 debts.

Provision was made to record 46 different types of creditors. For analysis purposes these 46 were collapsed to 13 categories. The distribution of all consumer/personal debts by these 13 categories (where known) is shown in Table 22.

Highlights of Table 22 include the fact that in terms of sheer numbers the most prevalent category is the finance and acceptance companies (N=1 826). Second in rank are personal/consumer loans from chartered banks, (N=1 354); amounts owing on bank credit cards account for another 572 items. Next in rank are debts owed to department stores⁵ (N=1 119) and to "other retailers"⁶ (N=1 116). Together these creditors accounted for about 60% of the individual debts listed.

5. For example, Eaton, The Bay, Simpsons, Woodward, Sears, Woolco, Zeller's.

6. For example, clothing, hardware.

Table 22

Distribution of Consumer/Personal Debts
by Category of Creditor

Category of creditor	Number of debts	
	%	Number
Banks	14.0	1 354
Bank credit cards	5.9	572
Gas and other credit cards	3.4	332
Finance/acceptance companies	18.8	1 826
Trust companies	0.5	48
Credit unions	3.6	352
Department stores	11.6	1 119
Other retailers	11.5	1 116
Utilities	8.1	785
Private individuals	8.9	866
Medical and dental	2.2	214
Government	7.5	728
Collection agency or credit bureau	<u>4.0</u>	<u>389</u>
Total	100	9 701 ^a

^aOf the 11 962 recorded individually.

Especially for the more common debt sources shown in Table 22, a question of interest was to learn what proportion of the sample owed money to particular sources. For instance, were the 1 354 debts where banks were listed as the credit source distributed across a large portion of the sample or concentrated among a small proportion of debtors? The question arises partly because any given category of creditor could have been listed more than once by a debtor. Thus a debtor could have listed a loan at each of two (or more) chartered banks, or finance companies, etc. The results of these calculations are shown in Table 23.

By far the most common creditor among consumer bankrupts is the finance and acceptance companies. Some 74% of the sample owed at least one debt to this source and 37% of the whole sample had two or more debts with finance and acceptance companies. At the other extreme only 6% of bankrupts reported debt owed to trust companies.

The second most common source of debt is the chartered banks, reported for about 61% of the sample. About 24% of the sample owed money on two or more bank loans. Also, about 30% reported money owing on a bank credit card. The other "institutional lender" identified is the credit unions. Among the present sample some 21% reported owing money to this source. The final cash lender in Table 23 is private individuals, reported as a debt source by about one-third of the sample.

Somewhat less than half the sample reported money owing to department stores (46%) and other retailers (41%). Debts on gas and other credit cards, medical and dental bills, and collection agency or credit bureau bills are much less common, reported by about 17% or less of the sample in each case. However, about a third reported one or more debts to utilities and government.

It would of course be interesting to examine the various combinations of debts owed by people in the sample, given that the median number reported was seven. It may be, for instance, that certain clusters or subgroups of creditors would emerge that could correlate well with such variables as socioeconomic status or province/region of residence. This type of analysis has not been done here but could be performed with the data file now available.

The other cross-tabulation presented here is debts owed to various categories of creditors by the dollar amount of the debts. The results are presented in Table 24.

For those cases where information on both the amount and lender were available Table 24 shows that slightly more than half (54%) of all individual debts were for less than \$750. At the other end of the scale, about 14% of individual debts were for \$4 000 or more. There were, however, some very pronounced differences in the amounts typically owing to various creditors.

Small debts of under \$500 were most prevalent among medical and dental bills (91% under \$500), utilities (81%), nonbank credit cards (76%), nondepartment store retailers (73%), and collection agencies and credit bureaux (70%).

Large debts (those of \$2 500 or more) are dominated by the financial institutions. Thus while about a quarter (23%) of all individual debts were for \$2 500 or more, this was true for 58% of debts owed to chartered banks, 49% of credit union debts, 45% of debts owed to finance and acceptance companies and 33% of debts to trust companies.

Department store and bank credit card debts tend to be concentrated at the lower dollar categories. Eighty-one per cent of individual department store debts were for less than \$1 000. Bank credit card debts were somewhat higher (59% under \$1 000) but 82% were under \$1 500.

The above data suggest certain features about the liability structure of the typical consumer bankrupt. First, in only a small minority of cases are mortgage or business debts involved; the great majority involve only consumer/personal debt, mostly unsecured. Second, it is likely that several individual debts will be owed, the mean being nine and the median seven. Third, the debts likely involve a mix of two or more large consumer loan debts (over \$2 500) and a number of smaller debts to department stores, other retailers and so on. Fourth, the great majority of consumer bankrupts owe a high number of their debts to finance and acceptance companies; more than a third of the entire sample had two or more debts with this category of creditor and three-quarters of the sample had at least one debt with these companies.

Liabilities "as stated" versus liabilities as proved and admitted. For purposes of administering the bankruptcy the individual's debts were divided into three categories: unsecured, preferred and secured. The total of these three represents the bankrupt's total liabilities. Where the Trustee's report to the court (on the bankrupt's application for discharge) or similar document was present, a distinction was often drawn in the report between liabilities as declared by the bankrupt in his Statement of Affairs ("liabilities as stated," see above) versus those liabilities "as

proved and admitted by the Trustee." Discrepancies, it seems, could occur because the bankrupt made errors in listing creditors and amounts owing or because creditors failed to prove a claim for whatever reasons.

For total liabilities "as stated" the average amount was \$23 619 (see Table 25). This differs somewhat from the average taken from the Statement of Affairs, which was \$25 493. This discrepancy is accounted for by the fact that the data here are based on a smaller proportion of the sample; that is, there were 244 cases missing from the trustee reports. Based on a similar proportion of the sample (255 cases missing) the average total liabilities "as proved" by the trustee were only \$17 030 or 72% of the total as declared by debtors. The discrepancy is likely due, primarily, to creditors not bothering to prove a claim if they feel there is little to be gained. The dollar relationship between the three kinds of debts (secured, preferred, unsecured) and the difference between the "as stated" and "as proved" are also shown in Table 25.

For unsecured debts the average "as stated" was \$16 184 (based on 1 246 cases including 3 of \$0). For unsecured debts "as proved" the average amount was \$11 263 (based on a similar number of cases but including 30 of \$0). On average, then, the "as proved" figure was only about 70% of the "as stated." This is understandable in the case of unsecured creditors in that at least some would not bother to prove a claim if they felt there was little likelihood of realizing any dividends. For secured debts the "as proved" figures were also on average much less than the "as stated." Bankruptcy Branch officials have suggested in this regard that some secured creditors will have taken action to realize what they can under their security before a distribution of dividends by the trustee occurs. It might also indicate that the trustee is finding some creditors' claims for security invalid. For preferred debts the average figures for "as stated" compared to "as proved" corresponded quite closely.

Assets and Their Disbursement: Amount and Kind of Assets
as Stated, Assets as Realized, Disbursement of Assets

One source of information on assets held by consumer bankrupts was an itemized list of assets by kind and value on the Statement of Affairs at the time of declaring bankruptcy. A second source was the trustee's itemized list of assets and value yielded in the Trustee's Statement to the Court and in the Trustee's Statement of Receipts and Disbursements (where these documents were available). Provision was made to capture all relevant data on assets and their disbursement.

Amount and kind of assets as stated. As stated by bankrupts in the Statement of Affairs the average amount of assets was \$6 308. This includes 422 cases (28% of the sample) that declared no assets of any dollar value. A breakdown by file type showed that while about 19% of those filing with a private trustee indicated no assets of any value, this was true for 44% of those filing under FITA. (This of course is consistent with the eligibility criteria for FITA assistance.) The median amount of total assets as stated for the whole sample was only \$400.

The number of individual assets declared by consumer bankrupts is shown in Table 26. The modal category was one asset listed, followed by those listing two assets. Some 83% of the sample listed two assets or less.

For most of the individual assets listed (about 95%), information for the three variables of kind (e.g., car, cash on hand), type (e.g., exempt from seizure, unencumbered) and dollar value was available and a cross-tabulation of these three variables was run (see Tables 27-29).

Of the three types of assets distinguished (secured, exempt from seizure, seizable) the largest proportion (49%) was exempt from seizure. Another 40% were shown as secured, leaving only 11% of the items as seizable. (See Appendix A for a description of wage garnishment and property execution exemptions.)

Of assets secured by creditors (Table 27) the largest proportion in terms of numbers was cars and trucks (34%), followed by real estate (26%) and furniture (22%). The modal dollar value category for cars and trucks was \$2 000-\$4 999 and for real estate \$25 000-\$49 999. For secured furniture the modal category was \$500-\$999.

Exemptions vary by province, as noted earlier. For the whole sample, under assets claimed to be exempt from seizure (Table 28) the most common items were furniture (36%), pension funds, securities and life insurance policies (26%) and cars/trucks (23%). In nearly all cases exempt assets were valued at less than \$2 000 (the exception is real estate, but real estate represented only 49 of 1 026 items listed as exempt). The modal category for pensions/life insurance policies was under \$250, for furniture \$250-\$999 and for cars/trucks under \$250.

As noted above only 11% of assets listed were actually available to creditors (Table 29). Of these, the most common were cash on hand (34%), followed by cars/trucks (24%) and various other assets (15%). The modal category for cash on hand and cars/trucks was under \$250, and for

Table 25

Debts by Kind and as Stated by Debtor versus as Proved and Admitted by Trustee

Statistics	Kind of debt					
	Secured		Unsecured		Preferred	
	As stated	As proved	As stated	As proved	As stated	As proved
Mean	\$ 8 242.86	\$ 5 502.85	\$16 183.82	\$11 262.75	\$1 271.91	\$ 1 687.34
Median	0.46	319.62	8 458.21	5 446.80	0.41	0.47
Standard error	576.63	481.10	1 038.44	864.74	176.12	649.58
Standard deviation	18 197.79	15 632.23	36 649.47	30 354.25	5 440.77	20 103.99
Number of valid cases	998 (including 517 of \$0)	1 056 (including 487 of \$0)	1 246 (including 3 of \$0)	1 232 (including 30 of \$0)	954 (including 525 of \$0)	958 (including 495 of \$0)
Number of missing cases	513	453	263	277	555	551
					244	255
					1 265 (including 1 of \$0)	1 254 (including 14 of \$0)

Table 26

Distribution of Sample by Number of Assets Listed by Debtor

	Number of Assets				
	0	1	2	3	4
Percent of Sample	24.1	32.6	25.9	9.9	4.8
Number	364	492	391	149	72
				41	2.7
					1 509
					Total

Table 27

Distribution of Secured Assets as Stated by Kind and Dollar Amounts

Kind and type of asset	Stated dollar value of asset																Total	
	\$1 to \$249	\$250 to \$499	\$500 to \$999	\$1 000 to \$1 999	\$2 000 to \$4 999	\$5 000 to \$24 999	\$25 000 to \$49 999	\$50 000 or more										
	%	Number	%	Number	%	Number	%	Number	%	Number	%	Number	%	Number	%	Number	%	
Secured																		
securities	27.2	41	17.7	17	12.1	16	2.7	3	1.0	1	3.9	4	2.8	1	0	0	10.2	85
real estate	1.3	2	0	0	0	0	0	0	11.0	11	65.4	68	94.4	102	100	29	25.5	212
furniture	29.1	44	36.5	35	38.6	51	31.9	36	9.0	9	0.9	1	2.8	3	0	0	21.5	179
car or truck	34.4	52	28.1	27	35.6	47	56.6	64	71.0	71	29.2	21	0	0	0	0	33.8	282
other vehicle	2.7	4	8.3	8	6.1	8	4.4	5	4.0	4	8.7	9	0	0	0	0	4.6	38
other assets	5.3	8	9.4	9	7.6	10	4.4	5	4.0	4	0.9	1	0	0	0	0	4.4	37
Total	100	151	100	96	100	132	100	113	100	100	100	104	100	100	100	29	100	833

Table 28

Distribution of Exempt from Seizure Assets as Stated by Kind and Dollar Amounts

Kind and type of asset	Stated dollar value of asset												Total					
	\$1 to \$249	\$250 to \$499	\$500 to \$999	\$1 000 to \$1 999	\$2 000 to \$4 999	\$5 000 to \$24 999	\$25 000 to \$49 999	\$50 000 or more	Number	Number	Number	Number						
Exempt																		
pensions/ securities/ life insurance	30.0	105	36.7	90	24.0	56	9.6	12	10.0	5	0	0	0	26.1	260			
real estate	1.2	4	0	0	3.9	9	3.2	4	10.0	15	69.4	13	100	1	100	3	4.8	49
furniture	27.1	95	39.6	97	41.6	97	54.4	68	28.0	14	0	0	0	0	0	0	36.2	371
car or truck	31.7	111	15.5	38	21.9	51	24.8	31	18.0	9	0	0	0	0	0	0	23.4	240
other vehicle	1.7	6	1.6	4	0.4	1	2.4	3	0	0	0	0	0	0	0	0	1.3	14
other assets	8.3	29	6.6	16	8.2	19	5.6	7	14.0	7	31.6	6	0	0	0	0	8.2	85
Total	100	350	100	245	100	233	100	125	100	50	100	19	100	1	100	3	100	1 026

Table 29

Distribution of Seizable Assets as Stated by Kind and Dollar Amounts

Kind and type of asset	Stated dollar value of asset												Total					
	\$1 to \$249	\$250 to \$499	\$500 to \$999	\$1 000 to \$1 999	\$2 000 to \$4 999	\$5 000 to \$24 999	\$25 000 to \$49 999	\$50 000 or more	Number	%	Number	%						
Available to creditors (seizable)																		
cash, shares	48.3	28	51.1	24	49.0	23	7.5	3	8.3	2	5.9	1	0	0	0	34.3	81	
real estate	0	0	2.1	1	6.4	3	10.0	4	25.0	6	70.6	12	0	0	100	3	12.3	29
furniture	1.7	1	10.6	5	17.0	8	25.0	10	8.3	2	0	0	0	0	0	0	11.1	26
car or truck	34.5	20	17.0	8	17.0	8	25.0	10	41.7	10	0	0	0	0	0	0	23.7	56
other vehicle	5.2	3	2.1	1	2.2	1	10.0	4	0	0	0	0	0	0	0	0	3.8	9
other assets	10.3	6	17.1	8	0.4	4	22.5	9	16.7	4	23.5	6	0	0	0	0	14.8	35
Total	100	58	100	47	100	47	100	40	100	24	100	17	0	0	100	3	100	236

Table 30

Total Liabilities by Total Assets as Stated by Consumer Bankrupts

Total assets	Total liabilities																	
	\$1 to \$2 999	\$3 000 to \$4 999	\$5 000 to \$6 999	\$7 000 to \$9 999	\$10 000 to \$11 999	\$12 000 to \$14 999	\$15 000 to \$24 999	\$25 000 to \$49 999	\$50 000 and up									
%	Number	%	Number	%	Number	%	Number	%	Number	%	Number	%	Number	%	Number	%	Number	%
None	50.0	13	42.9	69	34.6	64	35.9	108	20.2	44	24.8	32	22.1	39	19.2	35	9.3	16
\$1 - \$249	19.2	5	21.1	34	19.5	36	15.6	47	23.1	36	11.6	15	11.4	20	4.4	8	2.9	5
\$250 - \$499	30.8	8	13.7	22	20.0	37	10.3	31	9.0	14	10.0	13	12.5	22	2.2	4	3.5	6
\$500 - \$999	0	0	16.1	26	11.9	22	17.6	53	12.2	19	14.0	10	14.2	25	8.2	15	6.9	12
\$1 000 - \$1 999	0	0	3.7	6	10.0	20	12.6	30	14.7	23	16.3	21	11.9	21	12.1	22	6.9	12
\$2 000 - \$4 999	0	0	2.5	4	3.2	6	6.3	19	12.2	19	21.7	20	9.7	17	11.0	20	5.8	10
\$5 000 - \$24 999	0	0	0	0	0	0	1.7	5	0.6	1	1.6	2	10.2	32	17.6	32	3.5	6
\$25 000 - \$49 999	0	0	0	0	0	0	0	0	0	0	0	0	0	0	25.3	46	31.2	54
\$50 000 and up	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	30.0	52
Total	100	26	100	161	100	185	100	301	100	156	100	129	100	176	100	182	100	173

"other assets," \$1 000-\$1 999. In a few cases, however, there was real estate available, the modal category for this type of asset (N = 12) being \$5 000-\$24 999.

As the above figures indicate, the great majority of consumer bankrupts list only minimal assets, the median being only \$400. The most substantial asset listed in dollar value was real estate, usually, however, fully encumbered as security for certain creditors. Assets exempt from seizure tended to be of quite minimal value. Similarly, of the small number of assets listed as being available to creditors, most were valued at less than \$1 000. In short, in the great majority of consumer bankruptcies the prospects of creditors receiving much from any seizure of the bankrupt's available assets as listed by the bankrupt are minimal. This is particularly true in the case of those with total liabilities under \$15 000 (64% of the sample) as the cross-tabulation between total assets and total liabilities shows in Table 30. Thus only about a third (34%) of those with liabilities under \$15 000 listed assets (of any kind) totalling in excess of \$500.

Assets as realized. Assets as listed by the consumer bankrupt at the time of filing can be distinguished from the value and kind of assets actually turned over to the trustee. The latter were itemized by the trustee under either "receipts" in the Trustee's Statement of Receipts and Disbursements or "assets as realized" in the Trustee's Statement to the Court. In the present sample this information was available in 79% of cases.

The average number of assets realized or receipted by the trustee was 1.7; the modal category was one asset realized (see Table 31). The distribution of assets realized by kind is shown in Table 32. The most common asset realized was consumer bankrupts' income tax refunds (33% of all assets), followed by cash on hand or in the bank (26%). Another common asset was money given to the trustee as a guarantee or retainer (21%). Among them, these three accounted for 80% of all assets realized. In only a few cases (5%) was a consumer bankrupt's car or truck actually sold off by the trustee and only 1% of all assets realized consisted of money obtained from the sale of consumer bankrupts' real estate.

The average dollar value of assets realized per case was \$964; the median, however, was only \$528. The distribution of amounts realized (by categories) for the combined sample and for private versus FITA files is shown in Table 33.

Table 31

Distribution of Cases by Number of Assets Realized

Number of assets realized by trustee	Known cases	
	%	Number
0	9.4	112
1	40.5	483
2	29.2	347
3	12.3	146
4	6.2	74
5	2.4	28
Total	100	1 190

Table 32

Distribution of All Assets Realized by Kind of Assets

Kinds of assets realized	All assets realized	
	%	Number
Cash on hand or in bank	25.8	529
Real estate	1.3	26
Income tax refund	33.2	681
Car or truck	4.5	92
Other vehicles (e.g., boat, trailer)	1.9	39
Guarantee of disbursements/trustee retainer	20.7	425
Salary	1.6	33
Legal action	1.5	30
Other (e.g., furniture, other assets)	9.5	194
Total	100	2 049

Table 33

Distribution of Assets Realized by
Dollar Categories for Combined Data
and by File Type

Total amounts realized	<u>Combined sample</u>		<u>Private files</u>		<u>FITA files</u>	
	%	Number	%	Number	%	Number
No stated value	11.3	135	1.8	14	28.4	121
\$1-\$249	18.0	214	6.0	46	39.4	168
\$250-\$499	15.1	180	14.5	110	16.3	70
\$500-\$999	31.2	371	42.0	320	11.9	51
\$1 000-\$1 999	18.3	218	26.5	202	3.7	16
\$2 000-\$4 999	4.8	57	7.3	56	0.2	1
\$5 000-\$24 999	0.8	9	1.2	9	0.1	0
\$25 000-\$49 999	0.4	5	0.6	5	0.0	0
\$50 000 and up	<u>0.1</u>	<u>1</u>	<u>0.1</u>	<u>1</u>	<u>0.0</u>	<u>0</u>
Total	100	1 190	100	763	100	427

The modal category for all cases was \$500-\$999 (31%). In only 1% of cases was \$5 000 or more realized and only 6% yielded even \$2 000. The difference in distribution between private and FITA cases is fairly dramatic, as might be expected given the eligibility criteria for FITA. For instance, while only 2% of the private files yielded no assets of value, this was true for more than a quarter of FITA files (28%). Also, fully two-thirds of FITA files (68%) yielded less than \$250 compared to only 8% of private files.

In summary, there are typically little or no assets held by consumer bankrupts that yield money available for distribution by the trustee. The largest proportion of assets listed by consumer bankrupts were exempt from seizure. Such assets typically consist of furniture or a car or truck worth only a few hundred dollars or less. Another large proportion of assets consisted of vehicles, furniture and real estate secured by creditors. Thus only a small proportion of assets were listed as available for distribution by the trustee, usually cash on hand or a vehicle. The great majority of these assets were valued at less than \$1 000. Where total liabilities were under \$15 000 (64% of sample) only about a third had assets of any kind totalling more than \$500. That consumer bankrupts' assets represent minimal amounts was also underlined by the trustees' formal statements showing the most common receipts to be income tax refunds and money given to the trustee as a retainer. In only very few cases was a consumer bankrupt's vehicle actually sold off by the trustee. As indicated above such vehicles are typically worth little or nothing in terms of market value anyway. Only 6% of all cases yielded even \$2 000; the modal category was \$500-\$999. Fully two-thirds of FITA cases yielded less than \$250 to the trustee; a quarter yielded no assets of value at all.

Disbursement of assets. Information on disbursements was drawn from the Trustee's Statement of Receipts and Disbursements, where available. Provision was made for recording up to five individual disbursements (kind and amount). The kinds of disbursements distinguished included: trustee's remuneration and disbursements (including insurance and bond premium), appraisal fees for real estate, legal fees, any "deficiency" or loss in fees absorbed by the trustee and, finally, dividends to creditors (i.e., the amount available for distribution to creditors).

The Trustee's Statement of Receipts and Disbursements was available in 862 cases or about 57% of the sample, a limitation affecting the reliability of the data. The average number of disbursements was 1.6; the distribution is shown in Table 34.

Table 34

Distribution of Cases by Number of Disbursements

Number of disbursements	Known cases	
	%	Number
1	40.9	353
2	56.7	489
3	1.9	16
4	<u>0.5</u>	<u>4</u>
Total	100	862

The distribution of individual disbursements by kind and by dollar categories is displayed in Table 35. It shows that 62% of all disbursements were for trustee remuneration (another 15% of items coded represented deficiencies in trustee fees). Another 21% of items were labeled as funds available for distribution to creditors.

The typical amount received for trustee services was \$500-\$749 (mean \$634, median \$503). In those files listing money available for distribution to creditors, the modal amount was \$100-\$249, followed by the \$250-\$499 category.

In summary, the data on disbursements show that the trustee received some or all of his fees in nearly all cases. The typical amount received was \$500-\$750, but there may be a deficiency in the fees actually received by the trustee. In only about one in five cases was there any money left over for distribution to creditors. The modal category (25%) was only \$100-\$249.

Other Findings: Regional Breakdown

Some summary data on debts and assets by region are presented in Tables 36-39. Tables 36, 37 and 38 show mean and median liabilities and assets as stated by region for the combined sample and for the private and FITA subsamples.

Table 35

Percent Distribution of Disbursements^a
by Kind and Amount

Amount	Kinds of Disbursements Listed			Amount avail- able for distribution to creditors
	Trustee remuner- ation	Deficiency in trustee fees ^b	Other fees (legal and real estate)	
\$1-\$99	9.8% (81)	24.3% (50)	70.4% (19)	10.6% (29)
\$100-\$249	4.9% (41)	17.0% (35)	22.2% (6)	24.8% (68)
\$250-\$499	8.6% (71)	18.9% (39)	3.7% (1)	18.6% (51)
\$500-\$749	53.2% (441)	36.9% (76)	0% (0)	17.9% (49)
\$750-\$999	12.2% (101)	0.5% (1)	0% (0)	11.3% (31)
\$1 000 and up ^c	11.3% (94)	2.4% (5)	3.7% (1)	16.8% (46)
Total	100% (829)	100% (206)	100% (27)	100% (274)

^aDisbursements 1 through 4 added together.

^bDeficiencies in trustee fees are not a disbursement of course. However, where this information was listed it was coded.

^cOf disbursements over \$1 000, 63% were under \$1 500, 76% were under \$2 000 and 86% were under \$2 500.

For the combined sample (see Table 36), mean liabilities ranged from \$17 764 in the Atlantic region to a high of \$38 532 in the Pacific region. The medians, however, ranged only from \$10 330 to \$14 932. Average assets ranged from a low of \$1 642 (Atlantic) to a high of \$13 309 (Pacific).

Among FITA files (see Table 38) the range of liabilities is narrow, as might be expected given the eligibility requirements. The asset data, however, show some interesting aberrations. For instance, average assets of FITA files in the Prairie and Pacific regions were much higher (at about \$2 500) than in other regions. The median asset levels in Quebec, Ontario and the Prairies (\$2 to \$4) were particularly low, however. This indicates a small number of high values resulting in a skewed distribution. In the Prairies especially, this is probably accounted for by higher exemption levels.

The most striking difference among private files (see Table 37) is the high values of liabilities and assets in the Pacific region. While in other regions average liabilities ranged from about \$31 000 to \$46 000, this value was \$65 000 in the Pacific region. As well, average assets were high at \$24 000, compared to a range of \$4 000 to \$9 000 for the other four regions. The median values were also extremely high in the Pacific region.

While a number of other regional analyses could be performed, the only additional one included here is the proportion of consumer bankrupts owing to selected creditors by region (Table 39). Among other things, Table 39 shows that Atlantic region consumer bankrupts have a higher propensity than debtors in other regions to owe money to finance and acceptance companies and to owe two or more debts to such institutions.

In short, the regional breakdown shows marked differences across regions. These and other factors could be explored in greater depth using the data now available through this study.

Table 36

Mean and Median Liabilities and Assets as Stated by Region for Combined Sample

Region	Mean liabilities	Mean assets	Standard error liabilities	Standard error assets	Median liabilities	Median assets
Atlantic (84)	\$17 764	\$ 1 642	\$3 989	\$ 493	\$10 330	\$ 500
Quebec (419)	25 327	6 775	2 005	1 128	11 347	425
Ontario (671)	24 050	5 112	1 896	524	10 345	201
Prairies (182)	23 813	5 897	4 933	1 565	10 706	2
Pacific (153)	38 532	13 309	5 758	2 038	14 932	1 494

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Table 37

Mean and Median Liabilities and Assets as Stated by Region for Private Files

Region	Mean liabilities	Mean assets	Standard error liabilities	Standard error assets	Median liabilities	Median assets
Atlantic (16)	\$45 773	\$ 4 235	\$19 795	\$2 315	\$19 971	\$ 640
Quebec (284)	32 907	6 846	2 819	1 625	14 470	672
Ontario (454)	31 097	7 535	2 741	754	12 155	600
Prairies (99)	33 198	8 741	8 860	2 759	12 992	4
Pacific (75)	65 446	24 303	10 706	3 604	48 367	10 086

Table 38
Mean and Median Liabilities and Assets as Stated by Region for FITA Files

Region	Mean liabilities	Mean assets	Standard error liabilities	Standard error assets	Median liabilities	Median assets
Atlantic (68)	\$11 237	\$1 038	\$ 818	\$255	\$10 170	\$470
Quebec (136)	9 061	228	531	103	7 500	4
Ontario (219)	9 556	160	615	21	7 536	2
Prairies (82)	12 501	2 457	1 398	786	8 219	2
Pacific (including Yukon and N.W.T.) (77)	12 066	2 498	1 337	886	8 198	799

1
0
0
1

Table 39

Percentage of Bankrupts Owning One Debt and More than One Debt to Selected Creditors by Region

Region	Type of creditors							
	Finance/acceptance companies				Banks		Bank cards	
	One finance/ acceptance co. debt	More than one finance/ acceptance co. debt	One bank debt	More than one bank debt	One bank credit card debt	More than one bank credit card debt	One dept. store debt	More than one dept. store debt
Atlantic (84)	32% (27)	54% (45)	32% (27)	19% (16)	26% (22)	4% (3)	30% (25)	25% (21)
Quebec (136)	40% (166)	34% (144)	33% (139)	21% (89)	17% (72)	7% (31)	23% (97)	15% (63)
Ontario (219)	35% (235)	41% (272)	39% (265)	23% (155)	26% (172)	5% (32)	27% (181)	17% (115)
Prairies (82)	39% (71)	31% (56)	40% (72)	26% (47)	24% (43)	7% (13)	28% (51)	31% (57)
Pacific (including Yukon and N.W.T.) (153)	35% (54)	29% (45)	27% (42)	47% (72)	29% (45)	15% (23)	26% (40)	30% (46)



Chapter V

CONCLUSIONS

Bankruptcy is a legal process by which most insolvent consumer debtors are able to obtain relief from their debt burden. It is viewed as a last resort solution to the individual's insolvency problem, to be used where it appears to be the best course of action.

The main purpose of the present study has been to provide, for the first time in Canada, detailed information regarding the characteristics and financial circumstances of consumer bankrupts in Canada. This has been achieved through the analysis of data from a national sample of consumer bankrupts which is representative of the country as a whole, of FITA and private trustee files, and of each of the district Bankruptcy Branch offices across Canada. The data analysis reported here is supplemented by a literature review (Appendix B) and an examination of studies which consider the influence of economic, legal and demographic factors on consumer bankruptcy (Appendix C).

The detailed profile of consumer bankrupts emerging from this study will hopefully be an important source of information for the relevant public, private and voluntary sector agencies, and help direct efforts to find practical means of reducing the problem of consumer insolvency and the need for this last resort solution to it. For inasmuch as declaring bankruptcy is a solution to the individual's insolvency problem it is clearly preferable if means can be found to reduce the social and economic hardship borne by creditors, and other consumers as well as the bankrupt himself when declaring bankruptcy becomes necessary.

From the literature reviews in Appendices B and C, several conclusions may be drawn.

1. The legal treatment of debtors, such as the remedies granted to creditors to assist them in obtaining repayment of debts, the nature of the relief provided by bankruptcy and the availability of that relief, were found to account for much of the difference between consumer bankruptcy rates for Canada, the United States and the United Kingdom. In this respect the continuation of the trend in Canada towards limiting a creditor's remedies, streamlining the bankruptcy process and increasing the types of debts relieved by bankruptcy

should, if all other things remain similar, see a continuation of the trend towards readier access to and use of consumer bankruptcy.

2. It would appear that the evolving direction of creditor-debtor legislation in Canada is unlikely to change dramatically and so reducing the consumer bankruptcy rate by making access to the legal process of bankruptcy more difficult is impractical. Therefore, it is improbable that the consumer bankruptcy rate would drop below a certain order of magnitude. In addition, with the possible exception of limiting harassment by creditors, changes to the legal environment would do little to prevent the need for insolvent consumers to have recourse to bankruptcy. That is, even if access to bankruptcy were made more difficult, the problem of insolvency would still remain.
3. Controlling major economic factors influencing bankruptcy such as unemployment or debt to income levels as a method for reducing consumer bankruptcies would be very difficult. No one has yet determined a magic formula to cure inflation, while reducing debt to income ratios nationally would likely require restrictions on credit which Canadians would find unacceptable.
4. Thus little can be done to alter either the legal environment or the major economic factors influencing bankruptcy. However, if a more specific breakdown of demographic factors is made, identifying problem groups of manageable size, then the public, private and volunteer sectors, whether at the federal, provincial or local level, may be better able to focus on specific problems and their causes as they affect one or several identified target groups.
5. Previous studies of users of Part X of the Bankruptcy Act and FITA have indicated that there is a need for debt composition as a middle course between debt arrangement plans and consumer bankruptcy. Also, greater integration is required between the bankruptcy process and consumer counselling and education. The proposed new Bankruptcy Act does provide for debt composition and resolves constitutional difficulties of integrating bankruptcy, and consumer counselling and education, by permitting the provinces to administer the bankruptcy process. However, such integration will be expensive and, in order to be effective and efficient, will require greater knowledge of the client group.

6. Previous national studies of consumer bankrupts in Canada are nonexistent. Several foreign studies have been done but because differences in legal and social systems are a major determinant of the bankruptcy rate and because the majority of such studies were conducted in the early to mid-sixties, their indicativeness of the contemporary Canadian situation is considered to be of limited value.
7. The above conclusions from the literature review clearly indicate that efforts to reduce the need for declaring personal bankruptcy as a last resort solution are best approached through reducing the insolvency situation which necessitates declaring bankruptcy. Having determined this, an essential first step is to learn more about the characteristics of persons declaring bankruptcy, including the details of their insolvency.

It is in this context that the present national study of Canadian consumer bankrupts was undertaken. Other conclusions and suggestions for further work emerging from the study are listed below.

1. Consumer bankruptcy, when viewed from a social stratification (social class) framework, is clearly a class-related phenomenon, occurring mostly among the lower levels of the working class. A very high proportion of those using private trustees and public (FITA) trustees, especially the latter, are drawn from the lower levels of the labour force, particularly unskilled manual and clerical jobs. Fewer consumer bankruptcies occur among the middle class or professional groups. This conclusion is reinforced by the available data on employment status and income. Consumer bankrupts have much lower incomes than the general population and exhibit a high degree of unemployment and job turnover. This is not to say, of course, that higher-income groups and social classes do not also face problems of insolvency as they represent a significant minority of those declaring bankruptcy. Rather, the point here is that lower social classes predominate among those insolvents who declare bankruptcy.
2. The demographic data on age, sex, marital status and number of dependents show that consumer bankrupts are not a homogeneous group. While it is possible to profile a "typical" consumer bankrupt, there are at least three or four distinct subgroups.

The typical consumer bankrupt, that is, the largest subgroup, is a married male in his late twenties or

early thirties who is living with his wife and has at least one dependent child. This confirms the findings of regional studies and is not surprising in that families in this stage of the family life cycle are among the most active users of credit.

However, the data show that at least 15% of consumer bankrupts are under the age of 25. Such persons are likely to be single and to have required the services of a public trustee. Data from a Winnipeg study¹ indicate that such young persons represent an increasing portion of consumer bankrupts. A more in-depth study of the characteristics and problems of this group appears warranted.

About 20% of consumer bankrupts are separated or divorced, a much higher percentage than the 5% of adults in the population at large classified as separated or divorced in the 1976 Census. Thus a distinct subgroup among consumer bankrupts consists of males who have financial responsibilities for alimony or maintenance. Another distinct subgroup consists of women who have declared bankruptcy either because of the husband's insolvency or through separation and consequent loss of income. The relationship between financial insolvency resulting in bankruptcy and family breakdown is no doubt a two-way street. In some cases a poor marital or common-law relationship will itself lead to financial irresponsibility and insolvency. In others, financial pressures will put stress on a relationship, leading to family breakdown. In the authors' opinion the latter situation is probably the more prevalent, given the high value placed on consumption in Canadian society and the inducements to consume, including advertising and the availability of easy credit even for those who cannot really afford it.

In any event, efforts aimed at rehabilitating those who have declared bankruptcy or assisting consumers headed towards insolvency should take into account the characteristics and needs of these distinct subgroups. Even families that are still intact when bankruptcy has been declared could in many cases benefit from family counselling.

1. T.K. Hira, "A Study of the Small Debtor Program in Manitoba (1973-1977)," mimeographed (Winnipeg: Department of Family Studies, University of Manitoba, 1979).

3. Actual or threatened legal action appears to be an important precipitating factor in consumer bankruptcies. Various data from the analysis indicate that a high proportion of consumer bankrupts have been faced with some sort of legal action or pressure before filing. It would be tempting to conclude that such legal actions or pressures are themselves a cause of consumer bankruptcy. However, the analysis also indicated that many consumer bankrupts either ignored or were otherwise unaware of the seriousness of their situation until such action was taken. Thus it is likely that, other things being equal, many would have ended up having to declare bankruptcy sooner or later anyway.
4. From the data it must be concluded that liabilities themselves are typically not very high, the median amount for the total sample being about \$10 865. Though a small proportion of consumer bankrupts had extremely high liabilities, the image of consumer debtors going bankrupt "in style" is not supported. Rather, the reality is more likely to be the case of a low-skilled or unskilled worker forced into bankruptcy for relatively small total debt amounts. The median number of debts was about seven, typically consisting of a couple of larger debts (over \$2 500 each) and several smaller debts.

The magnitude of these debts takes on a different proportion, however, when compared to assets. Among the total sample more than half had assets of less than \$500 in value, including more than a quarter of the total who had no assets of value. This general poverty of assets is reinforced by the trustee's statement of assets realized. The median amount across the total sample was only slightly above \$500. Where assets are realized the typical asset is an income tax refund or cash given to the trustee as a retainer. Certain assets such as furniture are exempt from seizure, but the typical value of such furniture is usually only a few hundred dollars or less and the same is true of vehicles owned by consumer bankrupts. Though there are some cases where substantial assets are present, only about 6% of all cases yield even \$2 000. These low asset levels are themselves a clue, perhaps, to identifying debtors heading for insolvency.

5. Consumer/personal debt accounts for by far the largest portion of liabilities owed by consumer bankrupts. Mortgage and business debts are owed by only relatively

small numbers of consumer bankrupts. Mortgage debt was owed by about one in five of all consumer bankrupts, and of this group about 60% owed two or more mortgages. (Since the survey year of 1977 dramatic increases have taken place in mortgage interest rates. It is quite possible that these increases are themselves having an impact on consumer bankruptcies. To the extent that this is true such persons might represent another distinct subgroup among consumer bankrupts.)

6. Mismanaged and/or excessive credit is the cause of the great majority of all consumer bankruptcies. Though this conclusion is based on consumer and trustee opinion, it is supported by the data regarding debt structures. Only a small proportion of consumer bankruptcies are directly attributable to health-related problems or other misfortune beyond the bankrupt's control.
7. Consumer bankrupts do not fit the stereotype of "high rollers walking away from their debts" while holding on to substantial assets. Rather, in most cases a poverty or near-poverty level of living is indicated, as measured by income or by assets.
8. Creditors typically do not benefit when bankruptcy occurs. In only about one-third of bankruptcies is any money realized for distribution to creditors, the modal amount being \$100-\$249. The threat of bankruptcy benefits creditors in terms of the power it gives them among debtors anxious to avoid the stigma of bankruptcy. In the authors' opinion this stigma is still a very real consideration for most insolvent debtors but one whose deterrent power clearly appears to be diminishing.
9. Given the economic costs incurred by creditors and consumers in general when consumer bankruptcy occurs and the hardship that it represents for bankrupt debtors themselves, it is clearly desirable that viable alternatives be found, such as arrangements under the new Bankruptcy Act. This conclusion is based on the data from this study which indicate that many consumer bankruptcies could be avoided if appropriate measures were taken early enough in the insolvency spiral.
10. For those who do declare bankruptcy, it is the authors' opinion that such persons would often benefit from closer integration with debt counselling so that the process becomes more of a learning experience. In a significant minority of cases family counselling may also be required, as noted above.

11. Money management skills are typically at very low levels among consumer bankrupts. In this respect the need to declare bankruptcy and the more general problem of insolvency are aspects of lifestyle. Nevertheless, if means can be found to alert consumers headed toward insolvency to the seriousness of their situation and steps taken to resolve the problem before it progresses to a need to declare bankruptcy, this would clearly be desirable from a social welfare perspective.
12. There is no doubt that a majority of consumer bankrupts are culpable for permitting their financial situation to deteriorate into insolvency. This culpability is related to a lack of foresight and of money management ability, and to other deficiencies in life skills and resources which are associated with but not limited to the lower social classes. Earlier detection of problem debtors and encouragement to participate in counselling would help in averting financial disaster.
13. It seems clear as well, however, that credit grantors in general must bear most of the responsibility for consumer insolvency. This conclusion is based on the fact that it often takes three to five years for the debt accumulation pattern to develop to the point of insolvency. During this period there are no doubt danger signs that show up, such as the need to seek a consolidation loan, or the need to seek a cash loan when such loans are already owed to two or more other lenders. The dramatic increase over the years in consumer credit outstanding in Canada, as noted in Chapter I, also indicates the willingness of credit grantors to grant ever-increasing amounts of credit.
14. There is, of course, general pressure on loans and credit officers within credit granting institutions to grant rather than deny credit since this is by definition the nature of their business. Furthermore, most institutions place faith in their debt collection procedures as a fallback argument for granting credit. Nevertheless, the data from this study indicate that in many cases of consumer bankruptcy the consumer's ability to get more credit should have been restricted earlier than it was; in short, getting further credit was too easy. Thus, despite pressures to grant rather than deny credit, there is from both an economic and social welfare point of view a responsibility among credit grantors to participate in efforts to detect and avert impending consumer insolvencies.

15. As a first step, it is proposed that joint efforts be undertaken by credit grantors, government agencies and social welfare agencies to develop and validate a model which will aid in the detection of potential insolvents early enough that referrals and corrective measures can be taken. Input for the development of the model could include such factors as: regional differences in borrowing patterns, subgroups of potential insolvents as emerged from this study, a longitudinal study of the debt accumulation patterns through time, income/debt/asset ratios, and others.
16. At a more general level the answer to the problem of consumer insolvency appears to lie partly with encouraging better money management skills both in the school system and beyond. Efforts to develop and disseminate such information tailored to the needs of specific target groups should be encouraged.
17. Given that consumer bankruptcies are continuing to increase substantially in recent years, involving issues of costs and their equitable distribution, it is suggested that a study along the lines of a socio-economic impact analysis (S.E.I.A.) be done under joint sponsorship. For instance, it would be interesting to correlate increases in consumer bankruptcy that have occurred over the last several years with changes in the bad debt write-offs, both in absolute and percentage terms, of various consumer credit grantors. Such a study would help quantify the economic and social costs and benefits of various alternatives and provide a rationale for the viability of particular courses of action.
18. Finally, because of changes occurring in the consumer credit market, it is proposed that an update of the current study be undertaken on a regular basis at three- to five-year intervals.

Appendix A

WAGE GARNISHMENT AND PROPERTY EXECUTION EXEMPTIONS

Wage garnishment and property execution laws in Canada are under provincial jurisdiction.¹ Thus each province has its own method of exempting a portion of a debtor's wages from garnishment. The following is a breakdown of the various wage garnishment and property execution exemptions from province to province.

Wage Garnishment

Provincial enactments concerning wage garnishment exemptions can first be divided into two groups: those that exempt a certain percentage of a debtor's income and those that exempt a specific, predetermined dollar amount of a debtor's income. Provinces which exempt a percentage of income are Nova Scotia, British Columbia, Manitoba, New Brunswick, Ontario and Quebec. Within this group, however, there is still more variation. New Brunswick and Ontario are the only provinces that use a straight percentage calculation, and even then Ontario's is 70% while New Brunswick exempts all wages. British Columbia, Manitoba and Nova Scotia, in addition to a percentage exemption, provide an alternative where a minimum dollar amount is exempted. This is obviously done in response to low-income debtors. Quebec, on the other hand, exempts a minimum dollar value, then exempts a further 70% of the remaining income.

The provinces and territories which exempt a certain specified amount of income (Northwest Territories, Yukon, Alberta and Saskatchewan) also vary in amount exempted. Of these jurisdictions, Alberta exempts the greatest amount of income. For example, a married debtor (spouse not working) with one dependent child would have \$480 of his or her monthly income exempted. That same family in Saskatchewan would have only \$300 per month exempted from garnishment.

Prince Edward Island is the one province that does not have a set percentage or dollar value exemption. Each case is considered individually, the sole restriction being

1. Section 47 of the Bankruptcy Act, R.S.C. 1970, c. B-3, preserves this with respect to bankrupts, subject to section 48.

Table A.1

Type of Exemption
from Wage Garnishment

Prov./terr.	\$ value	% of wages	Type of exemption	
			% of wages + minimum value	Minimum value plus % of excess wages
Alberta	X			
British Columbia			X	
Manitoba			X	
New Brunswick		X		
Newfoundland	X			
Northwest Territories	X			
Nova Scotia			X	
Ontario		X		
Prince Edward Island				xa
Quebec				X
Saskatchewan	X			
Yukon	X			

^aEach case is decided individually with a minimum exemption equal to what one would get if on welfare.

that there is a minimum exemption equal to that which the debtor would receive if on welfare.

Table A.1 summarizes the types of exemption from wage garnishment. A ranking of the relative sizes of the wage exemptions under the various provincial garnishment laws is rendered difficult by the fact that some provinces exempt a percentage of the debtor's wages while others exempt both a percentage and a minimum dollar amount. For the purposes of this analysis, this problem is partially alleviated by imposing a minimum wage of \$6 000 in cases where a dollar amount is exempted.

Table A.2 sets out the various wage exemptions in each province and territory and the percentage of income they effectively exempt.

Apilado et al.,² in analyzing the degree of restrictiveness with respect to wage garnishment, categorized the exemption laws under four major groups. Using these groupings, the degree of restrictiveness of the wage garnishment legislation of Canada's provinces and territories is displayed in Table A.3.

As can be seen from Tables A.1 to A.3, most of the provinces that exempt a specific amount are far less restrictive with respect to wage garnishment than those that exempt a certain percentage of wages. One thing that should be noted, however, is that those provinces that exempt a specific amount guarantee a debtor at least a certain amount of income. This would be especially important for debtors with low incomes. Except for New Brunswick, where wage garnishment is not permitted, the provinces of Nova Scotia, Quebec and British Columbia, which provide both minimum amounts and percentage exemptions, protect a greater spectrum of the population from wage garnishment than those jurisdictions that exempt either a percentage or fixed amount of wages.

Property Execution

A similar type of analysis as above was applied to exemptions for property. It was found that most provinces have similar legislation in this area. They all provide exemptions for food, fuel, furniture, utensils, farm machinery and animals, and books for a professional. However, the dollar value limits of these exemptions vary and are

2. Vincent P. Apilado, Joel J. Dauter, and Douglas E. Smith, "Personal Bankruptcies," Journal of Legal Studies 7, no. 2 (June 1978): 371-92.

Table A.2

Exemptions from Wage Garnishment

Province/territory	% of income exempted	Actual amount exempted any income
New Brunswick	100	100%
Nova Scotia	85	85% or a minimum of \$150/week for a person with a family or \$100/week for a single person. ^a
Quebec	80b(86)	70% of the excess over the following exempt amount: \$60/week plus \$10/week for each dependent over two, if the debtor supports a spouse and child or relative, or (b) \$40/week for others.
Prince Edward Island	At least welfare level	No less than an income the person would receive if that person were dependent on payments from welfare assistance. Exemptions are calculated in terms of basic need items.
British Columbia ^c	70	70% or no less than: (a) \$100/month for a single person or (b) \$200/month for a person with dependents. ^d
Manitoba	70	70% or no less than: (a) \$100/month for a single person, or (b) \$165/month for a person with dependents. ^e
Ontario	70	70%
Alberta	60b(80)	(1) \$400/month if married, (2) \$400/month if married plus \$80/month for each dependent child. Figures reduced if both spouses work.
Northwest Territories	60b(80)	Same as Alberta.
Newfoundland	56b(89)	(1) \$375/month for married person with dependent spouse, (2) \$445/month for married person with dependent spouse and 1 dependent child plus \$30/month for other dependents, (3) \$375/month plus \$30/month for each dependent in excess of one for a single person or for a married person not supporting spouse, (4) \$280/month for all others.
Saskatchewan	30b(60)	(1) \$300/month for a married or single person with 1 to 3 dependents, \$325 for 4 or more dependents, (2) \$150/month for others.
Yukon	26b	\$6/day for the period in respect of which the wages are owing on the day the garnishee summons is served on the garnishee.

Sources (of legislation on wage exemption):

Alberta	Rules of the Court, 1978, Rule 483.
British Columbia	R.S.B.C. 1960, c. 20, s. 3, amended in 1971, c. 6, s. 2 (Attachment of Debts Act).
Manitoba	R.S.M. 1970, c. G-20, s. 6, as amended in 1979, c. 8, s. 2 (Garnishment Act).
New Brunswick	R.S.N.B. 1973, c. G-2, s. 31 (Garnishee Act).
Newfoundland	R.S.N. 1970, c. 16, s. 2, as amended, 1972 No. 14, 1974 No. 106 and 1977 c. 5, s. 1 (Attachment of Wages Act).
Nova Scotia	Rules of Court, 1975, Rule 53, 05.
Northwest Territories	Judicature Ordinance, R.O.N.W.T. 1974, c. J-1.
Ontario	R.S.O. 1970, c. 486, s. 7, as amended in 1971, c. 20, s. 1 (Wages Act).
Prince Edward Island	R.S.P.E.I. 1974, c. G-2, s. 17 (Garnishee Act).
Quebec	Code of Civil Procedure, 1977, art. 553(9).
Saskatchewan	R.S.S. 1966, c. A-32, s. 22 (Attachment of Debts Act).
Yukon	Yukon Ordinances 1973, c. 52, s. 17 (Garnishee Ordinance).

a \$150/week is 130% of an annual salary of \$6 000. \$100/week is 87% of an annual salary of \$6 000.

b These provinces exempt specific dollar amounts of a debtor's income. The percentage figure presented is based on an annual salary of \$6 000 for a single person. The figure in parentheses represents the exemption for a married person with one child.

c British Columbia, like most of the other provinces, has different exemptions with respect to attachments pursuant to judgements under various family maintenance statutes. The court in some provinces has the power to vary the amount exempted (sometimes within limits) when there are special circumstances present.

d \$100/month is 20% of \$6 000. \$200/month is 40% of \$6 000.

e \$165/month is 33% of \$6 000.

frequently unrealistic. For example, New Brunswick allows exemptions for food and fuel for 3 months provided their dollar total does not exceed \$100. British Columbia's and Prince Edward Island's exemption laws only allow for a total of \$500 worth of chattels to be exempted from seizure. In addition, there are only four provinces or territories which allow for any sort of exemption for the debtor's home and land. Alberta exempts 160 acres of land (any excess being subject to lien) and up to \$8 000 worth of the debtor's home. If the house is worth more it is sold, with \$8 000 going to the debtor. Saskatchewan's law is similar but it exempts \$16 000 for the home. The Yukon and the Northwest Territories both exempt up to \$3 000 for the house and land together.

Using Apilado and his associates' categories of liberal, medium and small exemptions, the provinces' property execution exemptions are ranked in Table A.4.

Table A.3

Degree of Restrictiveness of Wage Garnishment
Legislation of Canada's Provinces and Territories

Garnishment restrictiveness	Provinces/territories
1. Does not allow or if does is highly restrictive or 81%-100% exempt.	N.B., N.S., Quebec
2. Allows garnishment and is fairly restrictive or 61%-80% exempt.	B.C., Manitoba, Ontario, P.E.I. ^b
3. Allows garnishment and is somewhat restrictive or 40%-60% exempt.	Nfld., Alberta N.W.T.
4. Allows quite liberal garnishment or 0%-40% exempt.	Sask., Yukon

^aAccording to groupings devised by V.P. Apilado.

^bPrince Edward Island sets neither a specific percentage nor dollar exemption value. Since it does provide for a maximum income equal to the welfare level, it could be classified in either group 2 or 3.

Table A.4

Exemptions for Chattels and Goods

Restrictiveness of exemptions	Province or territory ^a
Large or liberal (allows many exemptions)	Alberta, Sask.
Medium (allows some exemptions)	Ontario, Quebec, Yukon, N.W.T.
Small exemptions	P.E.I., B.C., Manitoba, N.B.

^aA list of each province's property exemptions is set out below. (Newfoundland's and Nova Scotia's exemptions were not located.)

Alberta

- (1) necessary clothing
- (2) \$2 000 worth of furniture
- (3) necessary farm animals
- (4) farm machinery
- (5) tools of one's trade up to \$5 000
- (6) seed and grain for farming
- (7) necessary books of a professional
- (8) 160 acres of one's homestead
- (9) up to \$8 000 for one's house or the cash from the sale

Exemptions Act, R.S.A. 1970, c. 129, s. 2.

British Columbia

\$500 worth of goods and chattels

Execution Act, R.S.B.C. 1960, c. 135, s. 25.

Manitoba

- (1) beds and furniture not exceeding \$1 000
- (2) necessary clothing and fuel for 6 months
- (3) books for a professional
- (4) food for 11 months

- (5) farm animals for food purposes
- (6) tractors, etc., for farmers
- (7) tools of the trade not exceeding \$500
- (8) seeds for planting
- (9) chattel property of any municipality or government

Execution Act, R.S.M. 1970, c. E-160, s. 30.

New Brunswick

- (1) beds and bedding and kitchen utensils
- (2) clothing
- (3) food and fuel for 3 months not exceeding \$100
- (4) several farm animals for food purposes for 6 months
- (5) tools and agricultural implements not exceeding \$100
- (6) certain quantities of seed, grain and potatoes for planting

Memorials and Executions Act, R.S.N.B. 1973, c. M-9, s. 33
(1).

Northwest Territories

- (1) household furniture up to \$200
- (2) necessary clothing
- (3) food and fuel for one year
- (4) livestock and farm implements not exceeding \$600, or \$600 in cash
- (5) \$3 000 for a house and lot

Exemptions Ordinance, Revised Ordinances 1974, c. E-5, s. 3.

Ontario

- (1) \$1 000 worth of clothing
- (2) food, furniture, fuel that are contained in the home not exceeding \$2 000
- (3) tools of one's trade not exceeding \$2 000
- (4) farm implements not exceeding \$5 000 or proceeds from the sale of such
- (5) seed to cultivate 100 acres

Execution Act, R.S.O. 1970, c. 152, s. 2.

Prince Edward Island

- (1) clothing, beds and bedding
- (2) tools of one's trade
- (3) stove

- (4) food and fuel
- (5) 1 cow

All these together cannot exceed \$500 in value.

Judgment and Execution Act, R.S.P.E.I. 1970, c. J-2, s. 25
(1).

Quebec

- (1) clothing and bedding
- (2) furniture and utensils up to \$2 000 and food and fuel
- (3) bees, hives and tools
- (4) farm animals and feed for 3 months
- (5) tools of one's trade
- (6) family portraits, etc.
- (7) things used in religious worship
- (8) alimentary allowances or pension
- (9) books of accounts
- (10) pensions granted to employees out of retirement pension funds

Code of Civil Procedure, L.R.Q. 1977, c. C-25, art. 552-53.

Saskatchewan

- (1) clothing
- (2) furniture not exceeding \$2 000
- (3) grain, flour and meats, sufficient to provide food and fuel until the next harvest
- (4) animals, machinery and a car, if necessary to conduct business, for the next year
- (5) books of a professional
- (6) tools and office furniture
- (7) seed and grain
- (8) crops when necessary
- (9) homestead up to 160 acres
- (10) \$16 000 for one's house or the cash for the sale

Exemptions Act, R.S.S. 1966, c. 96, s. 2(1).

Yukon

- (1) household furniture not exceeding \$200
- (2) clothing
- (3) food and fuel for one year
- (4) livestock, tools and implements not exceeding \$600
- (5) house and lot not exceeding \$3 000

Exemptions Ordinance, Revised Ordinances 1970, c. 38, s. 3.

Nova Scotia

No exemptions. Sale of land under Executions Act, R.S.N.S. 1967, c. 275.

Newfoundland

- (1) working tools and implements of trade
- (2) fishing skiff or punt
- (3) cooking facilities
- (4) necessary bedding and wearing apparel for self and family

Judicature Act, R.S.N. 1970, c. 187, s. 210.

Appendix B

SOCIOECONOMIC STUDIES OF CONSUMER DEBTORS

Though socioeconomic studies of consumer bankrupts have been done, the majority of these have been foreign. In particular, there have been no national studies of bankrupts in Canada. A brief review of the methodology and findings of these foreign studies indicates the need for a national study of Canadian consumer bankrupts.

Foreign Studies

Several foreign studies have contained compilations of socioeconomic profiles of consumer bankrupts.¹ Most of these have been regional studies in the United States. Undoubtedly the results of these studies will be useful for comparison with Canadian studies. Relying on them as being indicative of the Canadian situation, however, would not be wise. As discussed in Appendix C, differences in legal and social systems are a major determinant of the consumer bankruptcy rate. Thus comparisons between consumer bankrupts from different systems would be of questionable use. A further problem is that most of these studies were done in the early to mid-sixties and so are somewhat out of date. For these reasons, the results from foreign studies are mentioned here when relevant but not outlined.

Canadian Studies

National bankruptcy studies. Other than the data published in the Bankruptcy Branch's annual reports, no studies on bankruptcy in general appear to have been done.² Some general observations on the characteristics of bankrupts were made by L.W. Houlden in 1966. His underlying observation was that what was urgently needed was a statistical survey to find out what are the actual facts.³ There have been,

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1. See the bibliography.
 2. A short internal report was prepared for the Bankruptcy Branch by René Cyr, but it consists mainly of data similar to that in the annual reports.
 3. Lloyd W. Houlden, "Personal Bankruptcies," Canadian Bankruptcy Reports 9 (1967): 217-23.

however, studies concerned primarily with evaluating the usefulness of two existing bankruptcy programs: orderly payment of debts under Part X of the Bankruptcy Act and FITA. In addition, two studies on consumer debtors in default have been published. These are outlined below.

Studies of Part X of the Bankruptcy Act and FITA. In 1966 the federal Parliament enacted provisions to the Bankruptcy Act providing for the orderly payment of debts. Part X allows a debtor to obtain a consolidation order and the staying of any legal action by his creditors against him or his possessions,⁴ but applies only in those provinces which request that it be declared in force.⁵ So far only British Columbia, Alberta, Saskatchewan, Manitoba, Nova Scotia and Prince Edward Island have done so; the Ontario courts, however, provide similar consolidations and in Quebec the Lacombe Law is equivalent to Part X of the Bankruptcy Act.⁶ Three studies have been done on the characteristics of consumers using Part X or the Lacombe Law and these are discussed below.

In 1973 the Alberta Debtors Assistance Board analyzed 636 of their current files on users of Part X. This study was not published and was unavailable for review.⁷

In 1974 a study by Claude Masse, Ejan MacKaay and Jean Hérard was published at the University of Montreal.⁸ It consisted of an empirical analysis of 370 debtors under

4. Bankruptcy Act, R.S.C. 1970, c. B-3, Part X, ss. 188-213.

5. Ibid., ss. 190, 213.

6. A. Parker and M. Culpepper, Credit Law and Bankruptcy Handbook (Vancouver: International Self-Counsel Press Ltd., 1975), p. 127. See also: D. Scott, "The Division Court Referee of the County of York: His Role in the Larger Picture," in W.A.W. Neilson, ed., Consumer and the Law in Canada (Downsview, Ont.: Osgoode Hall Law School, 1970), pp. 119-25; Quebec Code of Civil Procedure, L.R.Q. 1977, c. C-25, Articles 652-59, 552-53.

7. M. Trebilcock and A. Shulman discuss this study in "The Pathology of Credit Breakdown," McGill Law Journal 22 (Fall 1976): 415-67. See text following note 22, below.

8. Claude Masse, Ejan MacKaay and Jean Hérard, Vivre ou exister? (Montreal: Le groupe de recherche en jurimétrie, Faculté de droit, Université de Montréal, October 1974).

the Lacombe Law and 201 files of debtors using the FITA program in Montreal. This study provides a good general profile of the consumers using the Lacombe Law. Among its main findings were the following: (1) if the debt to income ratio exceeds \$3 000 to \$5 000 debt per \$5 000 income, then bankruptcy is the only practical solution; (2) only one in three debtors had a technical chance of getting out of debt under the Lacombe Law, with only 15% able to do so in less than three years and 27% in less than five years; (3) debtors were often better off financially and emotionally going bankrupt than using the Lacombe Law; (4) debtors were not using bankruptcy either because of (i) a lack of awareness that they could, (ii) personal ethics, (iii) a fear of goods seizure, or (iv) a failure to qualify under the Small Debtor Program (FITA). The University of Montreal research group recommended that Consumer and Corporate Affairs Canada: (1) publicize existing programs and remove stigmas; (2) establish an intermediate program (some form of debt composition) between the Lacombe Law and bankruptcy; (3) establish a mechanism, in close collaboration with the provinces, to coordinate the debtor's choice of program; (4) establish consumer education courses on the law governing overindebtedness, increase cooperation with social agencies and combine bankruptcy administration with counselling; and (5) expand the offices of the public insolvency trustee agency to meet the projected increase in demand.

A third study, concerning orderly payment of debts in Nova Scotia and Prince Edward Island, was recently completed.⁹ On the basis of past and present experience with Part X, the report strongly recommended that Part III of the proposed new Bankruptcy Act (Bill C-12) be given serious consideration by the Atlantic provinces as an alternative form of debtor assistance.

Studies of FITA. On June 1, 1972, Consumer and Corporate Affairs Canada initiated the Small Debtor Program. The object of this program was to provide federal public trustees in bankruptcy for those debtors who were unable to afford private trustees and therefore were effectively denied recourse to bankruptcy.¹⁰ Originally, debtors were required

9. Canada, Consumer and Corporate Affairs Canada, Research Newsletter, January 1979, p. 23.

10. Other countries have given similar assistance to debtors: in the United States there is an instalment plan and in the United Kingdom a legal aid plan enabling destitute debtors to enter the bankruptcy process. See G.S.

to meet certain income and asset tests before they were able to benefit from the program, but these administrative criteria were later relaxed so that federal trustees were generally available to any debtor unable to obtain the services of a private trustee. The FITA program ended in 1978 when the private trustees agreed to accept all debtors regardless of their ability to pay.¹¹

In addition to the 1974 University of Montreal study discussed above, several other studies have been done on the Small Debtor Program. The Edmonton Area Office of the Bankruptcy Branch released a survey (conducted by D.N. Wispinski and R.W. Fenniak) entitled "Bankrupts' Observations on Bankruptcy and on the Federal Trustee Program" in 1976. A University of Montreal study on the small debtor program was completed in two parts, the first in 1977,¹² the second in 1979;¹³ in January 1979, T.K. Hira's "A Study of the Small Debtor Program in Manitoba (1973-1977)" was released.¹⁴

Joslin, "Bankruptcy Chat from England," Journal of the National Conference of Referees in Bankruptcy (July 1964): 84.

11. Conversation with Bankruptcy Branch officials. It is interesting to note that private trustees in Ontario appeared amenable to such an arrangement as early as 1969, before FITA was created: see L. Lind, "New Service Offered to Lower Costs of Bankruptcy," Globe and Mail, February 6, 1969.

12. Claude Masse, Pauline Roy-Lauzon and Jacques Vignola, "Accessibilité et réhabilitation en matière de faillite [Small Debtor Program: Access and Discharge in Bankruptcy], Rapport III, Partie V -- Accessibilité au programme de faillite par syndic public," paper prepared by the Consumer Research Group, Faculty of Law, University of Montreal for Consumer and Corporate Affairs Canada, Bankruptcy Branch, April 1977.

13. Pauline Roy-Lauzon and Jacques Vignola, "Accessibilité et réhabilitation en matière de faillite, Rapport III, Partie IV -- Évaluation de la clientèle des programmes de la loi de faillite," paper prepared by the Consumer Research Group, Faculty of Law, University of Montreal for Consumer and Corporate Affairs Canada, Bankruptcy Branch, February 1979.

14. T.K. Hira, "A Study of the Small Debtor Program in Manitoba, 1973-1977," mimeographed (Winnipeg: Department of Family Studies, University of Manitoba, January 1979).

The Edmonton study found that after going through the bankruptcy process the rehabilitated debtors felt a sense of relief and well-being and had improved their income position. Rehabilitation was most successful when there existed a good working relationship with the administrator so that all bankruptcy related problems were dealt with. The researchers found that referrals of the bankrupt to the provincial debtors assistance board by the Bankruptcy Branch were largely ignored by the bankrupt. The major recommendation of the study was that bankruptcy proceedings and counselling should be integrated to resolve this problem. Providing these integrated services would be expensive, however, and if government groups were to be involved certain constitutional difficulties would have to be overcome.¹⁵

The University of Montreal's 1977 study is much more superficial than its 1974 study. The first two-thirds of the 1977 study consists mainly of a summation of some of the findings of the 1974 study. From this analysis and review the authors concluded the following:

The analysis of the socioeconomic characteristics of over-burdened debtors has permitted us to see that the clientele is largely composed of young unskilled workers who face unstable employment situations. The situation of those under the bankruptcy program is more precarious than the depositors (users of the Lacombe Law). For them a small indebtedness will quickly be felt as overindebtedness. Abusive use of credit is an important factor which will have to be considered in the rehabilitation program.¹⁶ (trans.)

The authors did make some concrete proposals concerning what income and assets of a debtor participating in an orderly payment of debts program should be excluded. It was recommended that income equal to the threshold of poverty (as determined by the Senate Committee on Poverty in Canada) be totally exempt, with income earned above this

15. The proposed new Bankruptcy Act does attempt to resolve this latter problem by permitting the provinces to administer consumer bankruptcy. Under the British North America Act, areas such as debtor counselling are already in the provincial domain of powers.

16. Masse et al., "Accessibilité et réhabilitation en matière de faillite."

level progressively made available to the creditors. (A payments table similar to this has now been adopted by the Bankruptcy Branch.)¹⁷ The assets for which protection was recommended were the bankrupt's residence, furniture and automobile, to a specified monetary limit. The authors also listed some financial indices which should be considered when deciding whether a debtor should attempt a proposal or enter directly into bankruptcy.

The final 15 pages of the 1977 study dealt with the Small Debtor Program. In particular, the 1977 study was concerned with explaining why debtors chose not to proceed with their assignment under FITA. It was found that this was due not to socioeconomic differences but rather to the then strict admission requirements of the program. The authors recommended that admission criteria for FITA should serve as a guide only, and be applied with more flexibility. (As discussed above, admission to FITA was later made considerably easier.) The 1977 study, like the one published earlier, recommended close cooperation with counselling agencies. It also advocated the preparation of a brochure explaining the bankruptcy process to debtors, the improvement of the data collected on users of the program and the offering to qualified debtors of the possibility of making a proposal to their creditors.

The University of Montreal's 1979 study was undertaken to estimate the size of the potential client group for programs under the proposed Bankruptcy Act. Using an index for overcommitted debtors consisting of income, assets, indebtedness, the poverty line, available income and the repayment table, the authors determined the potential client group in Quebec for programs under the proposed Bankruptcy Act, as of 1969.

The authors found that 79.7% of families and single persons in Quebec had the capacity to repay all their debts almost immediately (45% of these persons had no debt), 12.6% could repay their debts within three years and 7.7% could not repay their debts within three years without going below the poverty line, 3.6% of these being unable to repay even one-tenth of their debts.¹⁸ From this the authors concluded the following:

17. Superintendent of Bankruptcy, Information Statement No. 8, May 7, 1979, Schedule 1.

18. Roy-Lauzon and Vignola, "Accessibilité et réhabilitation en matière de faillite, Rapport III, Partie IV," pp. 196-97.

The problems of indebtedness for these three categories of debtors call for different solutions, and the programs provided for in Bill C-60 can provide these solutions. The remedy of arrangement by extension is appropriate for those who can repay all their debts; arrangement by composition may be the solution for those who can repay only part, say over 10%. In the remaining cases, bankruptcy is the only solution.

The debtors included in these three categories represent 20.3% of the population and we shall concentrate on this group in our analysis in the following sections.

In analyzing this problem group the authors found that

it is not the absolute amount of the indebtedness that is critical, but rather the proportion of the capacity to pay or the net value that the indebtedness represents[In fact] indebtedness among people with financial difficulties is lower than for the other categories of respondents.¹⁹

For assets the opposite was true: the more assets a debtor had, the less likely he was to be in financial difficulty. Most of these problem debtors were found to have very little income to apply to a repayment scheme so the authors concluded that assets are the most important determinant of the debtor's ability to repay.

The authors narrowed their debtor group to those considered to be in difficulty. A debtor in difficulty was defined as "one who cannot repay all of his or her debts within a three-year period" (p. 23). This group represented 7.7% of the families and single persons in Quebec. Because one half of these had debts of less than \$1 000 the authors excluded them in estimating the client group for bankruptcy and arrangement programs (p. 25). Of the remainder, the authors felt one-quarter to one-half would actually make use of the programs. Thus the potential client group comprised 1% to 2% of the Quebec population of families and single persons, 15 000 to 30 000 family units. The authors concluded that the vast majority of these would use bankruptcy

19. Ibid., p. 200. The page numbers given in the paragraphs that follow refer to the English translation of the 1979 study.

rather than arrangement programs, as they had very little income available for repayment schemes and any form of asset liquidation would be tantamount to bankruptcy. However, because a voluntary composition arrangement would be less costly, those debtors able and prepared to pay approximately the equivalent of their assets over a three-year period would benefit themselves (by retaining their assets) and their credibility (by decreasing their loss) by using debt composition. The arrangement by extension program was found to be of little use. It was recommended that the maximum three-year period be extended. Such a recommendation is questionable, however, as adhering to too long a repayment program would require too much discipline from the debtor.

The authors lastly considered the socioeconomic characteristics of the potential client group (pp. 32-39). They concluded that there is no typical client for the bankruptcy and arrangement programs. They did find, however, that almost all the debtors were living below the poverty line or, when family income was included, very close to the line (p. 39).

Hira's Manitoba study was undertaken to analyze the characteristics of FITA bankrupts and their observations with regard to the FITA program. Hira found that the average applicant for FITA in Manitoba was a married male, 32 years of age, who lived in Winnipeg, had 3.3 children and was a blue collar worker with an average annual income of \$5 900. His average debts were found to be \$6 700, owed largely to a finance company, bank, department store and door-to-door salesman, but his assets were minimal. Some of the major causes of declaring bankruptcy included unemployment, marital difficulties, illness and, in particular, overextension of consumer credit. It was discovered that almost all the bankrupts were financially better off after declaring bankruptcy, but that there was a need for consumer education counselling programs in conjunction with the relief from debts provided by bankruptcy.²⁰

As can be seen, certain similarities and contradictions exist among these studies of Canadian bankrupts. This may be due to their generally small sample sizes and regional nature. The only clear conclusion seems to be that there is a need for more integration between the bankruptcy process and consumer counselling and education. Such integrated services would be expensive, however, and establishing them would require a good understanding of the client group. There is clearly a need for a study based on a

20. Hira, "Small Debtor Program in Manitoba," Summary.

larger sample of bankrupts drawn from all regions of the country in order to permit a better understanding of consumer bankrupts in Canada.

Studies of consumer debtors in default. Two other Canadian studies in the area of consumer default are of interest: M. Trebilcock and A. Shulman's "The Pathology of Credit Breakdown"²¹ and T.C. Puckett's "Credit Casualties: A Study of Wage Garnishment in Ontario."²²

In the Trebilcock-Shulman study, characteristics of the debtor subject to wage garnishment or goods seizure were collected and compared with data on Lacombe Law and Part X debtors, and FITA bankrupts. (Data on the characteristics of the general user of consumer credit were lacking.) Trebilcock and Shulman found the profile to be very similar in all cases, constructing a single stereotype of a male debtor, probably between 25 and 45, married, with three dependents, with an annual income (in 1972 figures) of between \$5 000 and \$6 000, with debts between \$2 000 and \$3 000, having a level of education of high school or less, an unskilled labourer vulnerable to abnormally high employment insecurity and, to a lesser extent, marital breakdown.

Trebilcock and Shulman then analyzed the collection procedures, informal and formal, of creditors. They found that formal procedures were more frequently used against unskilled labourers: goods seizure if they had a low income, wage garnishment if they had a higher income. They make several recommendations. They feel that there should be no control of advertising or interest rate levels and no minimum deposit requirement. They oppose any alteration in creditors' remedies. They feel that a stable economy with a guaranteed annual income is required to solve the problem. They also advocate the improvement of the debtor-creditor information flow (encouraging wiser granting of credit), some alterations to exemptions from wage garnishment and a

21. See footnote 7.

22. University of Toronto Law Journal 28 (1978): 95-194. Rules of the Game (1978), a study by Claude Masse of consumer organizations and of complainant consumers, is also of interest but is too broad to be described here. Claude Masse and Michelle Marois, Rules of the Game: Survey of Consumer Organizations and of Complainant Consumers (Montreal: Groupe de recherche en consommation, Faculté de droit, Université de Montréal, 1978).

tightening of the availability of bankruptcy to debtors who could use Part X.

The Puckett study on garnishment would appear to be the most thorough study to date on this aspect of consumer default in Canada.²³ However, the study is based on a relatively small sample of debtors from the Hamilton area whose wages have been garnished. Puckett provides an in-depth socioeconomic profile of these debtors. Comparison of this profile with other default debtor profiles would be useful in determining whether all default debtors are a relatively homogenous group.

23. Puckett, "Credit Casualties."

Appendix C

FACTORS INFLUENCING CONSUMER BANKRUPTCY

Numerous factors have been cited by various authors, commentators and persons familiar with bankruptcy as affecting the rate and level of consumer bankruptcies. These have included: economic factors such as unemployment and debt to income ratios; legal factors such as the availability of the bankruptcy process and the nature of the treatment under the law of insolvent debtors; and demographic factors such as age, marital status, family size, education and occupation. The purpose of this examination is to determine whether any of these factors should be further examined to assist in finding measures that would reduce the need for insolvents to resort to bankruptcy.

Findings on the Influence of Economic and Legal Factors on Consumer Bankruptcy

Several authors have cited economic factors, in particular rising consumer debt to income ratios and unemployment, as the main reasons for the increase in consumer bankruptcies. In the United States, David T. Stanley, Marjorie Girth et al. explained the post-World War II growth in the magnitude of the U.S. consumer bankruptcy rate as being due to the increase in the personal debt to income ratio.¹ Frederick C. Yeager also came to this conclusion.² Other economic factors such as unemployment were considered to cause fluctuations in this growth, but not to actually determine its magnitude. Michael Foot, in his comparative study of the United States and the United Kingdom, also considered the debt to income ratio to be an important determinant of the magnitude of the consumer bankruptcy rate. Foot concludes:

Nevertheless, one interesting point does emerge, namely that the ratio of indebtedness to personal income...was nearly twice as high at the end of 1975 in the United

1. David T. Stanley, Marjorie Girth et al., Bankruptcy: Problem, Process, Reform (Washington, D.C.: The Brookings Institution, 1971), pp. 24-27, 40. Authorship hereafter cited in the text and footnotes as Stanley et al.

2. F.C. Yeager, "Personal Bankruptcy and Economic Stability," Southern Economic Journal 41 (July 1974): 96-102 at 101.

States as in the United Kingdom. If the argument put forward by Stanley³ is accepted on an international level, this would be a major explanation of the higher rate of consumer bankruptcy in the U.S.A.⁴

However, the above positions of Stanley et al., Yeager and Foot are questionable. A more sophisticated statistical analysis of factors determining consumer bankruptcy rates was more recently published by V.P. Apilado, J.J. Dauter and D.E. Smith.⁵ Using equations consisting of legal and economic variables, the authors performed combined and cross-sectional regression analyses of the consumer bankruptcy rates of each of the United States of America.⁶ The legal variables, particularly restrictions on garnishment, were found to provide a better explanation than the economic variables of the variance of consumer bankruptcy rates across states.⁷ Legal variables accounted for slightly over 23% of the interstate differences while economic variables explained only 2% of the variance. Within a state, where the legal variable could be ignored since it was constant, economic variables were found to account for a large amount of the changes in that state's consumer bankruptcy rate.⁸ The debt to income ratio was found to account for far more of the change than unemployment. Unemployment furthermore had a negative coefficient indicating an inverse relationship; that is, when unemployment goes up the bankruptcy rate goes down. This is contrary to what Stanley et al. believed but not illogical, for when unemployment is up consumers may be more cautious in borrowing.

3. Stanley et al., Bankruptcy, pp. 27, 32.

4. Michael Foot, "Personal Bankruptcy -- An International Comparison," Three Banks Review, no. 115 (September 1977): 21-39 at 27.

5. Vincent P. Apilado, Joel J. Dauter and Douglas E. Smith, "Personal Bankruptcies," Journal of Legal Studies 7, no. 2 (June 1978): 371-92.

6. The legal variables were severity of wage garnishment laws and exemption provisions from personal property seizure.

7. Apilado, Dauter and Smith, "Personal Bankruptcies," pp. 382, 390.

8. Ibid.

Apilado and his associates believed that other explanatory variables have yet to be identified. One of these could be demographic differences among the constituent populations, though the authors suggest that "demographic differences tend to be associated with or related to economic differences (in terms of income level, debt burden and employment status among others)."⁹ The authors conclude:

To the extent that additional variables represent subsets of legal and economic factors, it might be interesting to examine one possible hypothesis suggested by this study: that the legal environment within a state establishes a base range of potential bankruptcy rates, and that economic variables dictate the movement of rates within this range over time.¹⁰

An expansion of Foot's comparative study of the United Kingdom and the United States to include Canada yields results which support the above hypothesis. Table C.1 shows the consumer bankruptcy rates for Canada, the United States and the United Kingdom for selected years from 1925 to 1975. It can be seen that until the mid-sixties Canada and the United Kingdom had very similar rates of consumer bankruptcy. The magnitude of the number of consumer bankruptcies would appear to be centred around a rate of ten per 100 000 population of 20 years of age or more. The actual rate had a variance of about plus or minus five bankruptcies per 100 000 population aged 20 or more. During this same period the consumer bankruptcy rate in the United States consistently remained five to ten times that of Canada and the United Kingdom. From the late sixties until the present the rate in Canada has increased dramatically while those for the United Kingdom and the United States have remained relatively stable. If the hypothesis that some factors control magnitude while others only result in variations within a given magnitude is correct, then an analysis of the similar and divergent economic and legal factors operating in the three countries until the mid-sixties and the changes in these factors after that date should isolate the relative importance of those factors in determining the magnitude of the consumer bankruptcy rate.

9. Ibid., p. 391.

10. Ibid,

Table C.1

The Rate of Consumer Bankruptcies in Canada, U.S.A. and U.K.

Year	Canada		U.S.A.		U.K.	
	(1) Cases (000s)	(2) Ratea	(3) Cases (000s)	(4) Ratea	(5) Cases (000s)	(6) Ratea
1975	8.335	(5.222) ^b	224	165	6.7	18
1974	6.992	(4.383)	169	128	52	14
1973	6.271	(3.195)				
1972	3.647	(3.086)		128		
1970	2.732		178	142	4.7	12
1969	1.725		169	137		
1968	1.308		181	149		
1967	1.549		192	161		
1966	1.903		176	150		
1960	0.813		98	89	2.8	7
1955	0.683		50	48		
1950	0.400		25	25	1.8	5
1932	0.840		55	70	4.7	15
1925	0.700		35	50	4.7	15

Sources:

Column 1: To 1965: The Canada Year Book, for various years. The figures for before 1955 are estimates, as actual figures included business and consumer bankruptcies, based on the proportion of consumer to business bankruptcies recorded when figures were kept separately. To 1975: Annual Report of the Superintendent of Bankruptcy (Ottawa: Consumer and Corporate Affairs Canada), for various years.

Column 2: Statistics Canada, Estimated Population by Sex and Age Group, cat. no. 91-202, and Population 1921-1971, cat. no. 91-512, occasional.

Columns 3 & 4: Stanley et al., Bankruptcy, p. 25.

Columns 5 & 6: Foot, "Personal Bankruptcy," pp. 24, 26.

^aNumber of cases of bankruptcies per 100 000 population ages 20 or over.

^bNumber of cases of consumer bankruptcies and rate with private trustees (i.e., FITA bankruptcies excluded).

A comparison between the personal debt to income ratios of Canada and the United States supports the Apilado-Dauter-Smith hypothesis and casts considerable doubt on the conclusions reached by Stanley et al., Yeager and Foot (see Tables C.2 and C.3). Unlike the United Kingdom debt to income ratios, Canada's are very similar to those of the United States. Yet the consumer bankruptcy rates of Canada and the United States are of very different magnitudes. Foot's conclusion that differing debt to income ratios explain, on an international level, different bankruptcy rates would appear to be incorrect. However, consumer bankruptcy rates in Canada, as in the United States and the United Kingdom, have increased at the same time as the debt to income ratio. It is likely that the debt to income ratio does explain changes in the consumer bankruptcy rate within a state but not differences in magnitude between states, as was found by Apilado, Dauter and Smith. Stanley et al. and Foot did recognize that other factors besides economic ones influenced bankruptcy rates.¹¹ Nonetheless, they appeared to feel that the debt to income ratio was the main determinant of the consumer bankruptcy rate. However, a major problem with the Stanley et al. study is a failure to distinguish clearly between factors which affected the growth of the consumer bankruptcy rate and those which determined the magnitude within which the rate would grow. At times, changes in the debt to income ratio was stated to result only in changes in the consumer bankruptcy rate; at other times the high debt to income ratio was stated to be the reason for the high magnitude of the consumer bankruptcy rate. Foot interpreted Stanley et al. to be saying that the debt to income ratio was the main determinant of magnitude, whereas it could be argued that they only regarded that ratio to be the main factor affecting consumer bankruptcy rate changes at a given magnitude. This latter interpretation would be in accord with the findings of Apilado and his associates. Thus only Foot would be suggesting that debt to income ratio differences were the major determinant of the magnitude of a state's consumer bankruptcy rate. Consideration of the Canadian situation in addition to that of the U.S. and U.K. positions would indicate that Foot is incorrect.

However, Foot also goes on to list important legal factors which may also account for the difference. Expanding Foot's comparative study of legal systems to include Canada's indicates that these legal factors are more important than Foot believed.

11. Stanley et al., Bankruptcy, pp. 28-32, Foot, "Personal Bankruptcy," pp. 27-34.

Table C.2

The Rate of Consumer Bankruptcies in Canada Compared with Debt, Income, Savings and Unemploymenta

	(1)	(2)	(3)	(4)	(5)
	Consumer bankruptcy rate	Debt/income	Savings/income	Savings/income to debt/income	Unemployment 15-24 years old 25-54 years old
1975	58 (36)	21.4	11.0	51.5	6.9
1974	50 (31)	21.7	10.1	46.6	5.3
1973	46 (23)	22.1	9.1	41.0	5.6
1972	27 (23)	21.8	7.4	33.8	6.2
1971	24	21.1	5.9	27.8	4.1
1970	21	21.6	5.3	24.6	3.9
1969	14	21.8	5.4	24.6	4.4
1968	11	21.0	5.6	26.8	3.3
1967	13	19.9	6.3	31.8	2.8
1966	16	19.2	6.7	34.8	3.4
1965	15	19.4	5.5	28.4	3.7
1964	16	18.6	4.2	22.5	4.5
1963	14	17.2	5.4	31.6	5.3
1962	10	16.3	5.6	34.5	5.7
1961	8	16.9	5.0	29.9	6.9
1960	8	16.2	6.3	36.2	6.8
1959	10	15.4	5.8	37.6	5.8
1958	11	14.2	7.1	50.3	6.8
1957	13	14.0	5.6	40.4	3.2
1956	8	14.2	6.5	46.0	4.4
1955	7	13.8	4.7	33.8	4.2
1954	7	12.6	4.8	37.9	4.1
1953	6	11.7	7.8	66.3	2.3
1952	6	10.1	7.6	75.1	2.2
1951	5	8.0	9.0	112.5	1.8
1950	5	9.6	5.2	54.1	3.0
1932	14	-	-	-	7.4
1925	13	-	-	-	2.8

Sources:

Column 1: See Table C.1.

Column 2: Income: Statistics Canada, National Accounts, cat. no. 13-201 (annual), for various years. Debt: Bank of Canada Review (March 1978), (February 1972), (1969 Supplement), (1968 Supplement).

Column 3: National Accounts, for various years.

Column 4: See columns 2 and 3.

Column 5: Statistics Canada, Historical Labour Force Statistics, cat. no. 71-201 (1977), and National Accounts, for various years.

a. Debt = consumer credit outstanding; income = personal disposable income; savings = personal net savings.

Table C.3

The Rate of Consumer Bankruptcies in the U.S.A. Compared with Debt, Income, Savings and Unemployment

	(1) Consumer bankruptcy rate	(2) Debt/income %	(3) Savings/income %	(4) Savings/income to debt/income %	(5) Unemployment %
1975	165	18	7.8	43.7	8.5
1974	128	19	7.3	39.2	5.6
1973	-	19	7.8	40.3	4.9
1972	128	19	6.2	32.1	5.6
1971	-	19	7.7	41.8	5.9
1970	142	18.4	7.4	40.0	4.9
1969	137	19.3	5.6	29.0	3.5
1968	149	19.2	6.5	34.4	3.6
1967	161	18.7	7.5	40.6	3.8
1966	150	19.1	6.5	34.3	3.8
1965	140	19.1	6.4	33.7	4.5
1964	135	18.3	6.0	32.5	5.2
1963	123	17.7	4.7	26.2	5.7
1962	118	16.6	5.3	32.0	5.5
1961	118	15.9	5.6	34.8	6.7
1960	89	16.0	4.9	30.4	5.5
1959	82	15.3	5.6	36.5	5.5
1958	74	14.2	6.8	48.1	6.8
1957	60	14.6	6.7	45.8	4.3
1956	50	14.4	6.8	46.5	4.1
1955	48	14.1	5.4	38.4	5.5
1954	43	12.6	6.1	48.0	2.9
1953	32	12.3	6.8	54.2	3.0
1952	28	11.5	6.8	58.1	3.3
1951	28	10.0	6.6	65.1	5.3
1950	25	10.4	5.3	50.3	23.6
1932	70	-	-	-	-
1925	50	-	-	-	-

Sources:

Column 1: See Table C.1.

Column 2: Income: Economic Report of the President, various years. Debt: 1950 to 1970: Banking and Monetary Statistics, 1941-1970, Board of Governors of the Federal Reserve System. To 1975: Estimates based on the proportion of noninstalment debt when both figures were kept. For instalment debt to 1975: Annual Statistical Digest: 1971-75, Board of Governors of the Federal Reserve.

Column 3: Economic Report of the President (1977).

Column 4: See columns 2 and 3.

Column 5: Economic Report of the President (1977).

aDebt = consumer credit outstanding; income = personal disposable income; savings = personal net savings.

The legal bankruptcy processes of Canada, the United States and the United Kingdom are in general very similar.¹² However, the United Kingdom and Canadian bankruptcy systems do treat creditors and debtors in a different manner from the United States' system.

Most consumer bankrupts in the United Kingdom fail to obtain their discharge.¹³ In Canada most consumer bankrupts do obtain a discharge; however, the discharge, usually absolute but occasionally conditional, generally takes on average nine to twelve months to obtain.¹⁴ In the United States the discharge is granted on average within seven months of petitioning.¹⁵

In Canada and the United Kingdom restrictions are put on the amount of credit an undischarged consumer bankrupt can obtain without disclosing his bankrupt status (which would effectively destroy his opportunity to be granted credit).¹⁶ These restrictions do not exist in the United States. Canadian and British debtors also stand to lose more of their assets by declaring bankruptcy. Exemption provisions in the United States are usually more generous than those in Canada and the United Kingdom. In both

12. The following discussion follows closely that of Foot, "Personal Bankruptcy," pp. 31-34, but expands it to include Canada. For a discussion of these bankruptcy systems, generally, see: J. Honsberger, "Bankruptcy Administration in the United States and Canada," California Law Review 63 (1975): 1515-45, and G.S. Joslin, "Bankruptcy Chat from England," Journal of the National Conference of Referees in Bankruptcy (January 1964): 22, (July 1964): 84, (October 1964): 105.

13. Foot, "Personal Bankruptcy," pp. 32-33, and Joslin, "Bankruptcy Chat" (January 1964), p. 22.

14. Annual Report of the Superintendent of Bankruptcy (Ottawa: Consumer and Corporate Affairs Canada, various years), unclosed estates; Background Papers for the Bankruptcy and Insolvency Bill (1978), p. 16; Bankruptcy Act, R.S.C. 1970, c. B-3, s. 143(1). In Ontario, due to a backlog of cases awaiting hearing before the Bankruptcy Court, it frequently takes over one year from the time it is requested to have a discharge hearing (see also footnote 37).

15. Foot, "Personal Bankruptcy," pp. 32-33.

16. United Kingdom: Ibid., p. 33. Canada: Bankruptcy Act, s. 170.

Canada and the United States there are both federal and provincial (state) exemption laws. The trend of federal U.S. legislation has been to provide floor exemptions.¹⁷ One Canadian proposal, in contrast, has called for ceiling exemptions above which no provincial exemption would be valid.¹⁸ The Canadian proposal, however, was removed from succeeding drafts of the proposed new Bankruptcy Act after vigorous opposition by the provinces to federal encroachment upon their legislative domain.

Furthermore, assets acquired by Canadian and British bankrupts before obtaining their discharge, including their salary, are subject to distribution among their creditors.¹⁹ This is not the case in the United States.²⁰ In Canada, however, section 48 of the Bankruptcy Act requires a court order before surplus income can be attached by a trustee; the courts are most diligent in exercising discretion to ensure no hardship is imposed.

It must also be remembered that an absolute order of discharge from bankruptcy may not relieve a debtor of all his debts. In Canada undischarged debts include debts which the creditor proves are "for goods supplied as necessities of life."²¹ This is an undefined term but has been interpreted broadly by the courts.²²

The nature of the bankruptcy laws of Canada and the United Kingdom would appear to explain, at least in part, why these states have a much lower rate of consumer bankruptcy than the United States. However, this ignores the rapid increase in the Canadian consumer bankruptcy rate

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17. Stanley et al., Bankruptcy, pp. 31-32.
 18. Bill C-60, s. 150(1). Also see the Bankruptcy Act, s. 48. The court may vary provincial wage exemptions. In practice they have in fact decreased the provincial exemptions.
 19. U.K.: Foot, "Personal Bankruptcy"; Canada: Bankruptcy Act, ss. 47(c), 48.
 20. Foot, "Personal Bankruptcy," p. 32.
 21. Bankruptcy Act, s. 148(1)(g).
 22. The courts have included such items as automobiles as "necessities of life."

since the late sixties. Not surprisingly, this increase can be explained by changes in the Bankruptcy Act of Canada and its administration since 1966.

Most important was an administrative change in the treatment of consumer debtors in Canada that took place with the 1972 implementation of FITA, which provided public trustees for debtors unable to afford private ones (and hence unable to declare bankruptcy). As the parenthetical figures in Table C.1, column 2 show, FITA alone accounted for a considerable percentage of the increase in the Canadian consumer bankruptcy rate. The proposed new Bankruptcy Act will result in further changes, including automatic discharge from bankruptcy after six months (subject to creditors' objections),²³ the requirement for the court to take into account the provincial law dealing with the exemption of property from execution or seizure before making an order against the bankrupt's salary,²⁴ the exclusion of necessities of life as a nondischargeable debt, and the introduction of debt composition as an alternative to bankruptcy.²⁵

In 1966, Part X was added to the Bankruptcy Act. This new addition to the Act provides for debtor arrangement plans for consumer debtors, but only in provinces where Part X has been proclaimed in force. At present, this excludes Ontario, Quebec, New Brunswick and Newfoundland. However, the Quebec civil code (the Lacombe Law) and the Ontario courts provide similar debtor arrangement plans.²⁶ Part X of the Bankruptcy Act provides for debt arrangement plans similar to those permitted in the United States. Chapter thirteen of the U.S. Bankruptcy Act has provided for debt arrangement plans since 1939. Although debtors who find a solution to their problems under Part X or similar arrangement plans will not be included in bankruptcy statistics, studies of Lacombe Law users have indicated that the majori-

23. Bill C-12, s. 231.

24. Bill C-12, s. 160.

25. Bill C-12, Part III.

26. A. Parker and M. Culpepper, Credit Law and Bankruptcy Handbook (Vancouver: International Self-Counsel Press Ltd., 1975), p. 127. See also: D. Scott, "The Division Court Referee of the County of York: His Role in the Larger Picture," in W.A.W. Neilson, ed., Consumer and the Law in Canada (Downsview, Ont.: Osgoode Hall Law School, 1970), pp. 119-25; and the Quebec Code of Civil Procedure, Articles 652-59, 552-53.

ty of users of debt arrangement plans, upon being exposed to and learning more about the bankruptcy process, have ultimately chosen to declare bankruptcy.²⁷

It would appear that differences in the legal process surrounding consumer bankruptcy can account for much of the difference between the consumer bankruptcy rates of Canada, the United States and the United Kingdom, certainly far more than the debt to income ratio does. The continued trend in Canada towards consumer-oriented legislation should, if all else remains the same, result in a continuing increase in consumer bankruptcy as evidenced by the bankruptcy rate jumping from 58 in 1975 to 87 in 1977 (per 100 000 population aged 20 and over). The hypothesis of Apilado and his associates -- "that the legal environment within a state establishes a base range of potential bankruptcy rates, and that economic variables dictate the movement of rates within this range over time"²⁸ -- would appear to have considerable validity.

Given this finding, if the legal environment were changed so that bankruptcy became a more difficult, expensive and disastrous experience for the consumer, bankruptcies would undoubtedly decrease. Such a solution is certainly illusory. Moreover, it is likely not politically feasible (assuming it is desirable) in this age of consumer awareness to suddenly strengthen the hand of creditors. Furthermore, though the above "solution" would reduce bankruptcies the problem of the insolvent consumer would remain. In this respect it would be interesting to correlate increases in consumer bankruptcy that have occurred over the last several years with changes in the bad debt write-offs, both in absolute and percentage terms, of various consumer credit grantors.

An alternative legal solution would be to end or restrict the creditor's remedy of wage garnishment so that bankruptcy would not have to be resorted to by insolvents in order to protect their jobs and pay cheques. In addition to Apilado and his associates, several others have singled out wage garnishment as a major contributor to the level of con-

27. Claude Masse, Ejan MacKaay and Jean Hérard, Vivre ou exister? (Montreal: Le groupe de recherche en jurimétrie, Faculté de droit, Université de Montréal, 1974). See text following note 8, Appendix B.

28. Apilado, Dauter and Smith, "Personal Bankruptcies."

sumer bankruptcies.²⁹ Some have recommended the abolition of garnishment³⁰ while others have proposed increased exemptions and restrictions on when a creditor can have recourse to this remedy.³¹

This direction of legal reform is perhaps more feasible in our society but is not without its costs. Again, it does nothing to solve the problem of the insolvent consumer. (Though Robert Dolphin, Jr. argues that most consumer bankrupts can pay their debts but choose bankruptcy as the easier alternative and, more importantly, to protect their jobs from the threat caused by an employer's dislike for the increased administration costs resulting from wage garnishment.³² Thus those consumer debtors who would benefit from restrictions on wage garnishment would not necessarily be true insolvents. Nonetheless, they would encounter financial difficulty which mere legal reform would do little to resolve.) A further cost of wage garnishment reform would be its effect on consumer credit availability and cost. T.C. Puckett points out that a consumer's future earnings are the main collateral that lenders rely on in granting loans.³³ Restricting garnishment restricts the

29. For example, G. Brunn, "Wage Garnishment in California: A Study and Recommendations," California Law Review 53 (December 1965): 1214-53; R.C.C. Cuming, "The Credit Consumer in Trouble: Remedies of Canadian Consumer Creditors," McGill Law Journal 15 (February 1969): 48-72; R. Dolphin, Jr., An Analysis of Economic and Personal Factors Leading to Consumer Bankruptcy, Occasional Paper no. 15 (East Lansing, Mich.: Bureau of Business and Economic Research, Michigan State University, 1965); T.C. Puckett, "Credit Casualties: A Study of Wage Garnishment in Ontario," University of Toronto Law Journal 28 (1978): 95-194; idem, "The Protection of Wages from Garnishment in Ontario," Ottawa Law Review 10 (1978): 566-80; E. Snedecor, "Why So Many Bankruptcies in Oregon?" Journal of the National Conference of Referees in Bankruptcy (July 1966): 78-80.

30. For example, Brunn, "Wage Garnishment," and Snedecor, "Why So Many Bankruptcies?"

31. For example, Cuming, "Credit Consumer in Trouble," Puckett, "Credit Casualties" and idem, "Protection of Wages."

32. Dolphin, Jr., Economic and Personal Factors.

33. Puckett, "Credit Casualties," p. 190; idem, "Protection of Wages," p. 567.

ability of creditors to realize upon this collateral and so decreases the collateral's value. R.L. Peterson and J.R. Frew found from an analysis of interstate differences in personal loan rates and availability in the United States that restrictions on wage garnishment resulted in fewer bank and finance company personal loans being made and higher finance company interest rates on consumer loans.³⁴ Restrictions on wage assignment, the contractual equivalent to wage garnishment, decreased the availability of credit union personal loans.³⁵

It is apparent that though legal reform is capable of substantially altering the consumer bankruptcy rate of a country it may not be a feasible route to take in Canada. Wage garnishment restriction appears to be the legal reform that holds the most promise, but it too is not without its costs. Furthermore, in Canada wage garnishment and wage assignment are already restricted considerably. Using the Apilado-Dauter-Smith four-tiered scale of wage garnishment -- freely allowed, somewhat restricted, largely restricted or highly restricted -- several Canadian provinces have wage garnishment laws that are largely restricted.³⁶ Similarly, wage assignments have been prohibited in some provinces.³⁷ The result is that in Canada the philosophical underpinnings of consumer bankruptcy legislation are likely unalterable. The few changes that can be made in the Canadian legal system -- increased restriction of creditor remedies, provision for debt consolidation and composition -- would likely result in little, if any, decrease in the bankruptcy rate.³⁸

34. R.L. Peterson and J.R. Frew, "Creditor Remedy Restrictions and Interstate Differences in Personal Loan Rates and Availability: A Supplementary Analysis, 1977," Working Paper No. 14 (Krannert Graduate School of Management, Purdue University, 1978), p. 12.

35. Ibid., pp. 9, 12.

36. See Appendix A, outlining wage garnishment and property execution exemptions in Canada.

37. For example, in Ontario only credit unions may take wage assignments, with 70% of wages still being exempt. Wages Act, R.S.O. 1970, c. 486, s. 7. Such wage assignments survive the bankruptcy process up until the consumer bankrupt actually receives his discharge.

38. See, for example, Puckett, "Credit Casualties," p. 186.

What then can be done in Canada to reduce the need for consumer insolvents to resort to bankruptcy? Little substantial change is possible in the immediate legal system so, following the hypothesis of Apilado and his associates, reducing the consumer bankruptcy rate below a certain magnitude is impossible. Controlling economic factors would be the next alternative. On a macroscale, however, this would be difficult. No government has a magic formula to control unemployment. Reducing debt to income ratios nationally would likely require restrictions on credit which Canadians would find unacceptable. It is therefore necessary to look for explanatory variables other than the above economic and legal ones to help understand the increase in Canadian consumer bankruptcies and permit the suggestion of methods to reduce the need for recourse to it. One such class of variables is demographic differences among the population. Though Apilado and his associates noted that there may well be a close correlation between demographic and economic differences (in terms of income level, debt burden and employment status, among others), knowledge of demographic factors relevant to consumer bankruptcy might permit a more specialized and acceptable response to consumer bankruptcy than broad economic reforms such as those suggested above.

Findings on the Influence of Demographic Factors on Bankruptcy

The demographic characteristics of the consumer bankrupt population have frequently been suggested as influencing consumer bankruptcies.³⁹ Apilado and his associates suspected that there might be a strong relation between demographic differences and economic differences.⁴⁰ For this reason they felt that demographic differences would do little to explain interstate differences in consumer bankruptcy rates. However, for the same reason, demographic characteristics should help to explain changes in the domestic consumer bankruptcy rate, as do economic factors. Although a state may be able to do little to alter the main economic factors (debt to income ratios and unemployment), if a more specific breakdown of factors is made, identifying problem groups of manageable size, then more focused and effective efforts by the public, private and volunteer sectors to alleviate the problem may be possible. In addition, as

39. Canadian Consumer Council, Report on Personal Bankruptcy (Ottawa, 1972); Apilado, Dauter and Smith, "Personal Bankruptcies."

40. See Apilado, Dauter and Smith, "Personal Bankruptcies."

the Canadian Consumer Council has stated,⁴¹ reform suggestions can only be evaluated when the target group is known.

An argument may also be made that the social character of a society is a major determinant of the magnitude of the consumer bankruptcy rate. Stanley et al. and Yeager tended to dismiss this, stating that increased bankruptcy "apparently resulted primarily from the increase in the amount of indebtedness of the population rather than from deteriorating credit standards or a greater willingness of persons to enter bankruptcy"⁴² or "a decline in the 'puritan ethic.'"⁴³ It is submitted that these views fail to realize that the mere fact that persons are willing to increase their indebtedness indicates a changing attitude towards bankruptcy. Bankruptcy is an implicit possible consequence of using credit so that an increased use of credit can at least in part be said to be due to a decreased fear of entering bankruptcy. Similarly, "the stigma of bankruptcy" is a phrase used by many authors: bankruptcy is said to be increasing because the stigma has decreased. This implies that there has been a change in society's character which is resulting in a higher magnitude of consumer bankruptcy. Therefore there is a need to understand what this new character is, and discovering more about the characteristics of consumer bankrupts should aid in providing this understanding.

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41. Canadian Consumer Council, Personal Bankruptcy, p. 4.
42. Stanley et al., Bankruptcy, p. 40.
43. Yeager, "Personal Bankruptcy," p. 102.

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